

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
January 3, 2006**

A meeting of the Fayetteville City Council will be held on January 3, 2006 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A presentation of a Letter of Commendation to the City of Fayetteville and its citizens for their commitment to protect and preserve the water resources of NW Arkansas and NE Oklahoma will be given by Mr. Ed. Fite of the Oklahoma Scenic Rivers Commission.

A. CONSENT:

- 1. Approval of the November 15 and December 6, 2005 City Council meeting minutes.**

THE MINUTES FOR NOVEMBER 15, 2005 WERE PULLED BY SONDRASMITH, CITY CLERK. THE DECEMBER 6, 2005 MINUTES WERE APPROVED.

- 2. Arkansas Aviation Technology Center:** A resolution granting the City of Fayetteville's consent to the assignment of a Hanger Lease from the Northwest Arkansas Aviation Technologies Center to Northwest Arkansas Community College.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 01-06.

3. **Community Access Television, Inc:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the Public Access Television Channel throughout 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 02-06.

4. **Downing Sales and Service Bid Award #05-82:** A resolution awarding Bid #05-82 to Downing Sales and Service for the purchase of two (2) Side Load Solid Waste Collection Trucks in the amount of \$397,908.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 03-06.

5. **Equipment Resource Management – Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Large Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$128,490.00 for the use by the Transportation Division; and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 04-06.

6. **Barloworld Freightliner of Springdale Tri-Axle Dump Truck Purchase:** A resolution awarding Bid #05-80 to Barloworld Freightliner of Springdale for the purchase of one (1) Tri-Axle Dump Truck in the amount of \$95,941.00 for the use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 05-06.

7. **Barloworld Freightliner of Springdale Tandem Axle Dump Truck Purchase:** A resolution awarding Bid #05-73 to Barloworld Freightliner of Springdale for the purchase of One (1) Tandem Axle Dump Truck in the amount of \$90,233.00 for use by the Water and Sewer Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 06-06.

8. **Downing Sales and Service Bid #05-81:** A resolution awarding Bid #05-81 to Downing Sales and Service for the purchase of two (2) Front Load Solid Waste Collection Trucks in the amount of \$368,888.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 07-06.

9. **Interlocal Agreement with Washington County for Jail Services:** A resolution adopting an amendment to the Interlocal Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas for jail services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 08-06.

B. UNFINISHED BUSINESS:

1. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 as shown in Exhibit "A" generally located north of Huntsville Road, east of Willow Avenue, south of Rock Street and west of Lyton Avenue from RMF-24 Residential Multi-Family 24 units per acre to RSF-8 Residential Single Family 8 units per acre. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting. This ordinance was Tabled at the December 6, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

2. **Reserve LLC - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00. *This ordinance was left on the First Reading at the December 20, 2005 City Council meeting.*

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE AND TABLED TO THE JANUARY 17, 2006 MEETING.

3. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the December 20, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4812.

4. **R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the December 20, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4813.

5. **2006 Bond Purchase Agreement - Wastewater Treatment Facility:** An ordinance authorizing the issuance and sale of not to exceed \$20,000,000 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, Arkansas for the purpose of financing a portion of the costs of acquiring, constructing and equipping pipelines in connection with a new Wastewater Treatment Facility and related sewerage improvements; providing for the payment of the principal of and interest on the Series 2006 Bond; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2006 Bond; authorizing the execution and delivery of a Continuing Disclosure Agreement ; and prescribing other matters relating thereto. *This*

ordinance was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4814.

6. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

THIS ITEM WAS TABLED TO THE JANUARY 17, 2006 MEETING.

C. NEW BUSINESS:

1. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

2. **R-PZD 05-1796 Park West:** An ordinance establishing a Master Development Plan Residential Planned Zoning District titled R-PZD 05-1796, Park West, located at Highway 112 east of Deane Solomon Road, containing approximately 139.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

3. **R-PZD 05-1816 Skate Place Condominiums:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1816, Skate Place Condominiums, located south of Ash Street on both sides of Chestnut Street, containing approximately 3.38 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

4. **R-PZD 05-1817 The Commons at Walnut Crossing:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1817, The Commons at Walnut Crossing, located north of Highway 62 West, lots 137 & 138 of the approved Walnut Crossing R-PZD, containing approximately 6.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4815.

5. **RZN 05-1833 Bellafont:** An ordinance rezoning that property described in rezoning petition RZN 05-1833 for approximately 25.29 acres located north of Joyce Boulevard, west of Venture Road, and south of Bellafont Gardens from R-O Residential Office and C-2, Thoroughfare Commercial to C-3, Central Commercial.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

- 6. RZN 05-1834 Vantage Square:** An ordinance rezoning that property described in rezoning petition RZN-05-1834 for approximately 13.47 acres located at lots 6C and 7A in Vantage Square from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office to C-1, Neighborhood Commercial, and C-2 Thoroughfare Commercial.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4816.

- 7. Garney Construction, Inc:** A resolution awarding a construction contract to Garney Construction, Inc. in the amount of \$4,582,536.60 for construction of the force mains from Hamstring Lift Station to the West Side WWTP (WL-5); and approving a 4% contingency of \$183,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 09-06.

- 8. Amend Chapter 151 & 164:** An ordinance amending the Unified Development Code Chapter: 151 definitions and Chapter: 164 Supplementary Zoning Regulations to clarify and designate the intent of the accessory structures and uses ordinance.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4817.

D. INFORMATIONAL:

Council Tour: December 30, 2005

City Holiday: January 2, 2006

MEETING ADJOURNED AT 9:35 P.M.

Adm 9:35 PM

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody	✓			

Alderman Rhoads was absent during roll call only

8-0

Subject:	Consent				
Motion To:		Approve		pulled,	
Motion By:		Jordan			
Seconded:		Reynolds			
Consent passed Res. 01-06 to 08-06 Nov. 15, 2005 Minutes were pulled by Sandra Smith	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody				

11-15-05 Minutes

8-0

Subject:	ADM 05-1657 Mt. Sequoyah South Rezoning				
Motion To:		2nd read			
Motion By:		Reynolds			
Seconded:		Thiel			
B.1. Unfinished Left on the Second Reading	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody				

8-0

Subject:	Reserve LLC - Cost-Share Agreement				
Motion To:		2nd read	Tabled until Jan. 17, 2006		
Motion By:		Ferrell	Jordan		
Seconded:		Rhoads	Lucas		
B.2. Unfinished Left on the First Reading	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	N	✓		
	Jordan	N	✓		
	Reynolds	N	✓		
	Thiel	N	✓		
	Cook	✓	✓		
	Mayor Coody				

failed

4-4

8-0

Subject:	C-P20 05-1704 First Baptist Church				
Motion To:		3rd read	Pass		
Motion By:		Reynolds			
Seconded:		Ferrell			
B.3. Unfinished <u>passed</u> 4812	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	R-P20-05-1734 Paradise Point				
Motion To:		Third Reading	Pass		
Motion By:		Rhoads			
Seconded:		Lucas			
B.4. Unfinished <u>passed</u> 4813	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	Absent during the vote	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Mayor Coody				

7-0

8-0

Subject:	2006 Bond Purchase Agreement - Wastewater Treatment Facility				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Jordan		
Seconded:		Ferrell	Ferrell		
B.5. Unfinished passed 4814	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	John D. Lindsey, LLC. Condemnation				
Motion To:		Table to Jan. 17, 2006			
Motion By:		Ferrell			
Seconded:		Reynolds			
B.6. Unfinished Failed until Jan. 17, 2006	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✗ NO			
	Mayor Coody				
		7-1			

Subject:	R - PZD 05-1766 Wedington Circle				
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C.1. New Business Left on the Second Reading	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody				

8-0

Subject:	R - PZD 05-1796 Park West				
Motion To:					
Motion By:					
Seconded:					
C.2. New Business Left on the first Reading	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Mayor Coody				

Subject:	R-PZD 05-1816 Skate Place Condominiums				
Motion To:					
Motion By:					
Seconded:					
C.3. New Business Left on the first reading	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Mayor Coody				

Subject:	R-PZD 05-1817 The Commons at Walnut Crossing				
Motion To:		2nd read	3rd read	Pass	Crossing
Motion By:		Lucas Jordan	Jordan		
Seconded:		Jordan Lucas	Lucas		
C.4. New Business passed 4815	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	RZN 05-1833 Bellafont				
Motion To:		2nd read	3rd read		
Motion By:		Ferrell	Ferrell		
Seconded:		Rhoads	Rhoads		
C.5. New Business Left on the Second Reading	Marr	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	N		
	Thiel	✓	N		
	Cook	✓	N		
	Mayor Coody				
		8-0	4-4 (failed)		

Subject:	RZN 05-1834 Vantage Square				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Rhoads	Marr		
C.6. New Business Passed 4816	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Garney Construction, Inc.				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Ferrell			
C. 7. New Business Passed 09-06	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody				

8-0

Subject:	Amend Chapter 151 & 164.				
Motion To:		Adopt the Amendments	2nd read	3rd read	Pass
Motion By:		Ferrell	Ferrell	Jordan	
Seconded:		Reynolds	Reynolds	Reynolds	
C. 8. New Business Passed 4817	Marr	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Mayor Coody				

8-0

8-0

8-0

8-0

Aldermen

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City Attorney Kit Williams
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A. CONSENT:

- 1. Approval of the November 15 and December 6, 2005 City Council meeting minutes.**
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- Change* ✓ 1. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 and shown in Exhibit "A" generally located north of Huntsville Road, east of Willow Avenue, south of Rock Street and west of Lyton Avenue from RMF-24 Residential Multi-Family 24 units per acre to RSF-8 Residential Single Family 8 units per acre. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting. This ordinance was Tabled at the December 6, 2005 City Council meeting to the January 3, 2006 City Council meeting.*
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✓ 5. **2006 Bond Purchase Agreement - Wastewater Treatment Facility:** An ordinance authorizing the issuance and sale of not to exceed \$20,000,000 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, Arkansas for the purpose of financing a portion of the costs of acquiring, constructing and equipping pipelines in connection with a new Wastewater Treatment Facility and related sewerage improvements; providing for the payment of the principal of and interest on the Series 2006 Bond; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2006 Bond; authorizing the execution and delivery of a Continuing Disclosure Agreement ; and prescribing other matters relating thereto. *This ordinance was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

✓ 6. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

C. NEW BUSINESS:

✓ 1. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.

h 2. **R-PZD 05-1796 Park West:** An ordinance establishing a Master Development Plan Residential Planned Zoning district titled R-PZD 05-1796, Park West, located at Highway 112 east of Deane Solomon Road, containing approximately 139.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Planning Commission Minutes
3. **R-PZD 05-1816 Skate Place Condominiums:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 05-1816, Skate Place Condominiums, located south of Ash Street on both sides of Chestnut Street, containing approximately 3.38 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

✓ 4. **R-PZD 05-1817 The Commons at Walnut Crossing:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 05-1817, The Commons at Walnut Crossing, located north of highway 62 west, lots 137 & 138 of the approved Walnut Crossing R-PZD, containing approximately 6.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

✓ 5. **RZN 05-1833 Bellafont:** An ordinance rezoning that property described in rezoning petition RZN 05-1833 for approximately 25.29 acres located north of Joyce Boulevard, west of Venture Road, and south of Bellafont Gardens from R-O Residential Office and C-2, Thoroughfare Commercial to C-3, Central Commercial.

- ✓ 6. **RZN 05-1834 Vantage Square:** An ordinance rezoning that property described in rezoning petition RZN-05-1834 for approximately 13.47 acres located at lots 6C and 7A in Vantage Square from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office to C-1, Neighborhood Commercial, and C-2 Thoroughfare Commercial.
- ✓ 7. **Garney Construction, Inc:** A resolution awarding a construction contract to Garney Construction, Inc. in the amount of \$4,582,536.60 for construction of the force mains from Hamstring Lift Station to the West Side WWTP (WL-5); and approving a 4% contingency of \$183,000.00.
- ✓ 8. **Amend Chapter 151 & 164:** An ordinance amending the Unified Development Code Chapter: 151 definitions and Chapter: 164 Supplementary Zoning Regulations to clarify and designate the intent of the accessory structures and uses ordinance.

D. INFORMATIONAL:

Council Tour: ~~None (City Holiday)~~

Dec. 30, 2005 4:30
Friday 4:30

Add! Interlocal Agreement for Jail Services.

~~Consent~~ Consent

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

DATE: **January 4, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting
of January 3, 2006**

1. **AR Aviation Technology Center:** Resolution granting City's consent to assignment of Hanger Lease from Northwest AR Aviation Technologies Center to Northwest AR Community College;
2. **Community Access Television, Inc.:** Resolution approving contract in amount of \$93,000.00 w/CAT, Inc., to operate Public Access Television Channel throughout 2006;
3. **Downing Sales & Service Bid #05-82:** Resolution awarding bid to Downing Sales & Service for purchase of two side load solid waste collection trucks in amount of \$397,908.00;
4. **Equipment Resource Mgmt. – Asphalt Roller Equipment:** Resolution approving purchase of one large double drum vibratory asphalt roller from Equipment Resource Mgmt. in amount of \$128,490.00 for use by Transportation Division and approving budget adjustment;
5. **Barloworld Freightliner of Spgd. Tri-Axle Dump Truck:** Resolution awarding Bid #05-80 to Barloworld Freightliner of Spgd. For purchase of one tri-axle dump truck in amount of \$95,941.00 for use by Transportation Division;

6. **Barloworld Freightliner of Spgd. Tandem Axle Dump Truck:** Resolution awarding Bid #05-73 to Barloworld Freightliner of Spgd. for purchase of one tandem axle dump truck in amount of \$90,233.00 for use by Water & Sewer Division;

7. **Interlocal Agmt. w/Washington Co. for jail services:** Resolution adopting amendment to Interlocal Agmt. between City of Fayetteville and Washington Co. for jail services;

8. **C-PZD 05-1704:** Ordinance establishing Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson St., 325 and 321 N. College Ave., and 350 and 354 N. Highland Ave., containing approximately 4.08 acres; amending official zoning map of City of Fayetteville and adopting Associated Master Development Plan;

9. **R-PZD 05-1734:** Ordinance establishing Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending official zoning map of City of Fayetteville and adopting Associated Master Development Plan;

10. **2006 Bond Purchase Agmt:** Ordinance authorizing issuance and sale of not to exceed \$20,000,000.00 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, AR for purpose of financing portion of costs of acquiring, constructing and equipping pipelines in connection w/new Wastewater Treatment Facility and related sewerage improvements; providing for payment of principal of and interest on Series 2006 Bond; authorizing execution and deliver of Bond Purchase Agmt. Providing for sale of Series 2006 Bond; authorizing execution and deliver of Continuing Disclosure Agmt; and prescribing other matters relating thereto;

11. **R-PZD 05-1817:** Ordinance establishing Residential Planned Zoning District titled R-PZD 05-1817, The Commons at Walnut Crossing, located north of Hwy. 62 West, lots 137 and 138 of approved Walnut Crossing R-PZD, containing approximately 6.45 acres, amending official zoning map of City of Fayetteville and adopting Associated Master Development Plan;

12. **RZN 05-1834:** Ordinance rezoning property described in rezoning petition for approximately 13.47 acres located at lots 6C and 7A in Vantage Square from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office to C-A, Neighborhood Commercial, and C-2 Thoroughfare Commercial;

13. **Garney Construction, Inc.:** Resolution awarding construction contract to Garney Construction, Inc. in amount of \$4,582,536.60 for construction of force

mains from Hamestring Lift Station to West Side WWTP (WL-5); and approving 4% contingency of \$183,000.00;

14. Amend Chapter 151 & 164 of UDC: Ordinance amending Unified Development Code Chapter: 151 Definitions and Chapter: 164 Supplementary Zoning Regulations to clarify and designate intent of accessory structures and uses ordinance.

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
January 3, 2006**

A meeting of the Fayetteville City Council will be held on January 3, 2006 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A presentation of a Letter of Commendation to the City of Fayetteville and its citizens for their commitment to protect and preserve the water resources of NW Arkansas and NE Oklahoma will be given by Mr. Ed. Fite of the Oklahoma Scenic Rivers Commission.

A. CONSENT:

- 1. Approval of the November 15 and December 6, 2005 City Council meeting minutes.**
- 2. Arkansas Aviation Technology Center:** A resolution granting the City of Fayetteville's consent to the assignment of a Hanger Lease from the Northwest Arkansas Aviation Technologies Center to North West Arkansas Community College.
- 3. Community Access Television, Inc:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the Public Access Television Channel throughout 2006.
- 4. Downing Sales and Service Bid Award #05-82:** A resolution awarding bid #05-82 to Downing Sales and Service for the purchase of two (2) Side Load Solid Waste Collection Trucks in the amount of \$397,908.00.
- 5. Equipment Resource Management – Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Large Double Drum Vibratory Asphalt Roller from

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9. **Interlocal Agreement with Washington County for Jail Services:** A resolution adopting an amendment to the Interlocal Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas for jail services.

B. UNFINISHED BUSINESS:

1. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 as shown in Exhibit "A" generally located north of Huntsville Road, east of Willow Avenue, south of Rock Street and west of Lyton Avenue from RMF-24 Residential Multi-Family 24 units per acre to RSF-8 Residential Single Family 8 units per acre. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting. This ordinance was Tabled at the December 6, 2005 City Council meeting to the January 3, 2006 City Council meeting.*
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D. INFORMATIONAL:

Council Tour: December 30, 2005

City Holiday: January 2, 2006

Initial	Date
----------------	-------------

Added at Agenda Session
12/27/05 for the 1/3/06 City Council Meeting
Consent
A.9.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

A.9.
Jail Services
Page 1 of 8

1/3/2006
City Council Meeting Date

Frank Johnson
Submitted By

Police
Division

Police
Department

Action Required:

City Council approve a resolution amending Interlocal Agreement for Jail Services between the City of Fayetteville and Washington County. This amendment increases the cost per booking from \$40.00 to \$44.00 and limits juvenile bookings to only those required by state law.

\$ 320,000.00 Cost of this request	\$ 519,358.00 Category / Project Budget	Services and Charges Program Category / Project Name
1010-2900-5315.00 Account Number	\$ - Funds Used to Date	Support Services Program / Project Category Name
Project Number	\$ 519,358.00 Remaining Balance	General Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 Department Director	12/21/05 Date	Previous Ordinance or Resolution # _____
 City Attorney	12/27/05 Date	Original Contract Date: _____
 Finance and Internal Service Director	12/27/05 Date	Original Contract Number: _____
 Mayor	12/27/05 Date	Received in City Clerk's Office 
		Received in Mayor's Office 

Comments: This expense is included in the 2006 Police Department budget.



City Council Meeting Date: January 3, 2006

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: Mayor Coody and members of the City Council
From: Frank Johnson, Chief of Police *FJ*
Date: December 18, 2005
Subject: Amend Interlocal Agreement for Jail Services

Recommendation:

City Council adopts by resolution the amendment to the Interlocal Agreement for jail services between the City of Fayetteville and Washington County.

Background:

The Fayetteville City Jail closed on June 20, 2005. Since that time Washington County has provided jail services at a cost of \$26,667.00 per month.

Discussion:

This amendment increases the booking fee from \$40.00 to \$44.00 per arrest, limits juvenile booking to only the charges that are required by Arkansas state law to be fingerprinted and payment will be on the actual number of bookings for the previous month and other minor procedural changes.

Budget Impact:

The 2006 budget contains \$320,000 to cover the City's cost for booking and maintaining City detainees, which is projected to be sufficient to cover the costs.

RESOLUTION NO. _____

A RESOLUTION ADOPTING AN AMENDMENT TO THE
INTERLOCAL AGREEMENT BETWEEN THE CITY OF
FAYETTEVILLE, ARKANSAS, AND WASHINGTON COUNTY,
ARKANSAS FOR JAIL SERVICES;

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby adopts an Amendment to the Interlocal Agreement between the City of Fayetteville, Arkansas, and Washington County, Arkansas, for jail services. A copy of the Amendment marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 3rd day of January, 2005.

APPROVED:

By DAN GOODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

**AMENDED INTERLOCAL
AGREEMENT FOR JAIL SERVICES**

THIS AGREEMENT, is made pursuant to A.C.A. §14-14-910, by and between the County of Washington, Arkansas, (hereinafter referred to as the "County"), and the City of Fayetteville, Arkansas, (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, the parties entered into an Interlocal Agreement for jail services date October 19, 2004; and,

WHEREAS, The parties desire to amend this agreement.

NOW THEREFORE, IT IS AGREED:

Section 1. (b) is hereby amended to read as follows:

2. **City prisoner** means a person arrested by City Police and held and confined in the County Jail (either pre- or post-trial) pursuant to a violation of a City Ordinance or a violation of state law, which designates the crime for which the person is held to be a misdemeanor. The term **City prisoner** shall not include a person arrested for a felony offense by City Police, a person arrested on a warrant issued by another jurisdiction or for charges initiated by a Non-City Police Officer, or a person charged by the County Prosecutor with a felony or an attempt to commit a felony, even if there is a plea to or a conviction of a lesser offense. A **City prisoner** shall not include juveniles; except as required by State law.

Section 5. Is hereby amended to read as follows:

5. **DURATION.** The initial term of this Agreement shall commence upon execution by both parties and shall expire on December 31, 2005. City shall have an option to renew this Agreement for a one (1) year term commencing on January 1, 2006 and ending on December 31, 2006, and annually thereafter. Said renewals shall be subject only to mutual agreement of the parties with the rate and payment set forth in **Schedule A**. The County further agrees to make jail space for City prisoners an operational priority annually.

2. **JAIL AND HEALTH SERVICES.**

- a. For prisoners accepted under this Agreement, County shall accept City prisoners and furnish jail facilities, booking, custodial services, medical services, and personnel for the confinement of City prisoners equal to those County provides for the confinement of its own prisoners.
2. City will provide equipment for the video arraignment and County will provide space, which will allow connectivity for the video arraignment equipment. County agrees to arrange for City prisoners to be arraigned through this video arraignment system.
3. County will provide space for equipment, utilities for this equipment, and access for City Officers to run GC tests.

3. **ACCEPTANCE OF PRISONERS.**

- a. City understands that County will accept prisoners on a nonexclusive basis under this Agreement. City recognizes the statutory power of the Sheriff to control the population of the jail pursuant to Ark. Code Ann. §12-41-503, County reserves the right to space in the jail for its anticipated prisoner needs and may require the removal of City prisoners to accommodate County prisoners. If City prisoners are to be displaced and must be removed from the jail, County agrees to notify City.
2. If a City prisoner needs emergency medical care prior to intake in the County jail, City shall insure that said care is provided.

4. **RATE OF PAYMENT. (See Schedule A).** City shall pay County at a rate as set out in **Schedule A** attached hereto. Said rates shall be adjusted by mutual agreement at the beginning of each new calendar year based on data from the previous years.

1. Each party may examine the other's books and records to verify charges. If an examination reveals a dispute charge(s) the parties agree to resolve the dispute through paragraph 14. Administration; Dispute Resolution. If the dispute charge is determined to have been inappropriate, an adjustment shall be applied to the next year's statement, or if the Agreement has terminated, by an appropriate payment from one to the other. The parties agree to meet at least

once each year to examine and review charges for the previous year. The parties shall document the annual reconciliation of charges for the previous year and closing the books on an annual basis.

Section 14. (a) is hereby amended to read as follows:

14. ADMINISTRATION; DISPUTE RESOLUTION.

1. Pursuant to Ark. Code Ann. §14-14-901, a joint board is hereby created to administer this Agreement. The Board shall consist of the Sheriff, the County Judge or designee, the Chief Police and the Mayor or designee. Said Board shall meet as needed to discuss pending issues and to resolve disputes if any.

Schedule A is hereby amended to read as follows:

SCHEDULE A

The current cost of keeping a County Prisoner in jail has been determined to be fifty dollars (\$50.00) per day; however due to the fact the citizens of the City are paying one forth (1/4) cent sales tax and due to the long and on-going history of sharing resources between the Sheriff and City Police, the County shall charge the City Forty-four dollars (\$44) per booked prisoner. For the first year, the costs will be calculated using projections made by the City based on 2004 booking figures. The amount paid by the City will be pro-rated based on the day the County begins accepting prisoners. Equal monthly payments based on the pro-rated amount will be due on the fifteenth (15th) day of each month.

Beginning in January of 2006 and each year thereafter the cost will be based on the number of prisoners booked the preceding month. The per diem amount shall be adjusted to reflect increases in the actual cost based on the actual number of bookings for the preceding month. County shall provide detailed information to City to justify said costs, but in any event the rate per booking shall not be increased by more that ten percent (10%) per year. * Payments beginning in 2006 will be billed monthly.

* Note: The ten percent (10%) increase for 2006 is reflected in this amended schedule.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____
day of _____, 2005

CITY OF FAYETTEVILLE

WASHINGTON COUNTY

DAN COODY, Mayor

JERRY HUNTON, County Judge

DATE: _____

DATE: _____

FRANK JOHNSON, Police Chief

TIM HELDER, Sheriff

DATE: _____

DATE: _____

APPROVED as to form:

APPROVED as to form:

KIT WILLIAMS,
City Attorney

GEORGE E. BUTLER, JR.,
County Attorney

DATE: _____

DATE: _____

B.6. John D. Lindsey, LLC.
Condemnation

City Council Meeting of January 3, 2006

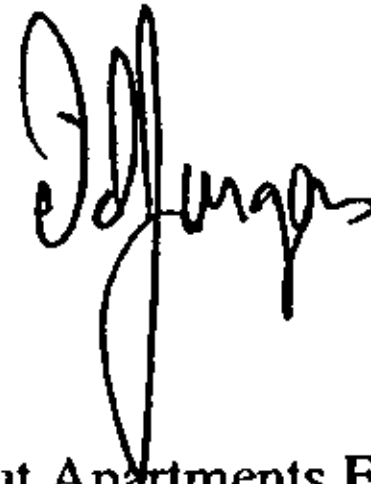
CITY COUNCIL AGENDA MEMO

Agenda Session 12/27/05

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 27, 2005

Subject: Background Information Regarding Chestnut Apartments Easement

Attached is the backup information regarding the easement acquisition at the Chestnut Apartments.

Physical Characteristics. Staff walked the location with Robert White, McClelland Consulting Engineers, on 27 December 2005. The 21 inch sewer line being installed is approximately 10 feet deep to the bottom of the pipe; the top of the pipe is roughly two feet below the current bottom of the creek. The creek bank has a gradual slope that begins approximately five feet from the corner of the building that tapers to the creek bottom. There are significant utility challenges in and parallel to Poplar Street. Also, the alignment is somewhat controlled by the fact that the line must be installed without disrupting the sewer flow in any other existing pipes. The new sewer cannot come on line until after the West Side WWTP is placed in service.

Construction Alternatives.

1. Install the pipe as designed. This results in a longer length of pipe and more manholes, but is the only viable alternative.
2. Install the pipe between the structure and the creek. This alternative is not viable due to the proximity between the structure and the creek. This was the desired alternative, but installing the pipe in this location will significantly degrade the creek bank, remove all existing vegetation on the bank, and will cause undue erosion over time. This erosion will ultimately compromise the pipe and possibly the structure. This alternative would require the fewest number of manholes and the lowest length of pipe, resulting in a lower construction cost.
3. Install the pipe on the other side of the creek. This alternative is not viable due to the requirement to cross the creek on two occasions. This would significantly increase the construction cost, require an amendment to the Corps of Engineers permit, involve a great deal more damage to both the creek and the banks at the location of both crossings.
4. Bore past the building. This alternative is not viable as the bore pits would cause significantly greater damage to the creek banks, and water would still follow the ditch line, ultimately resulting in failure of the bank.

Recommendation. Acquire the easement as written. Install the pipe as designed.

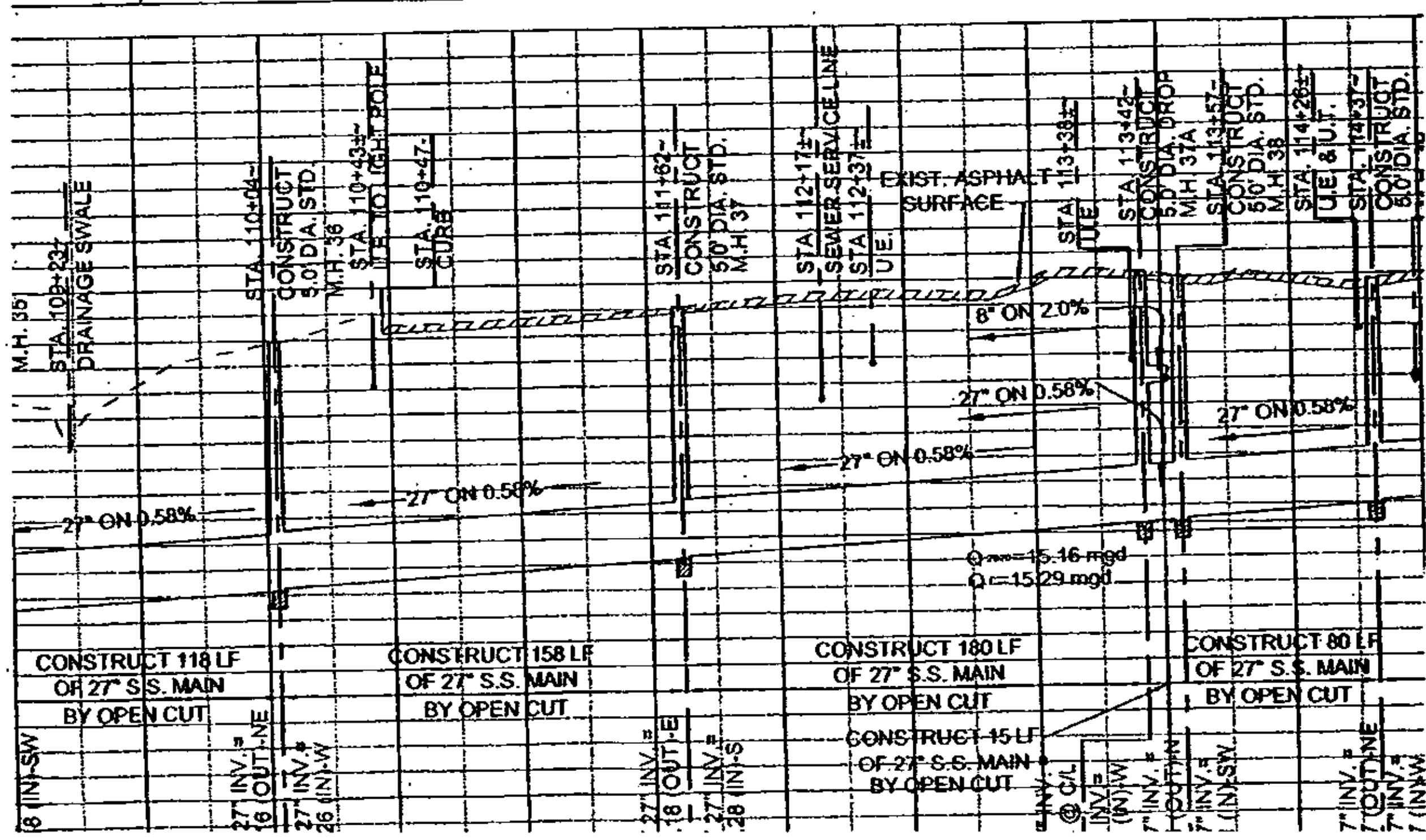
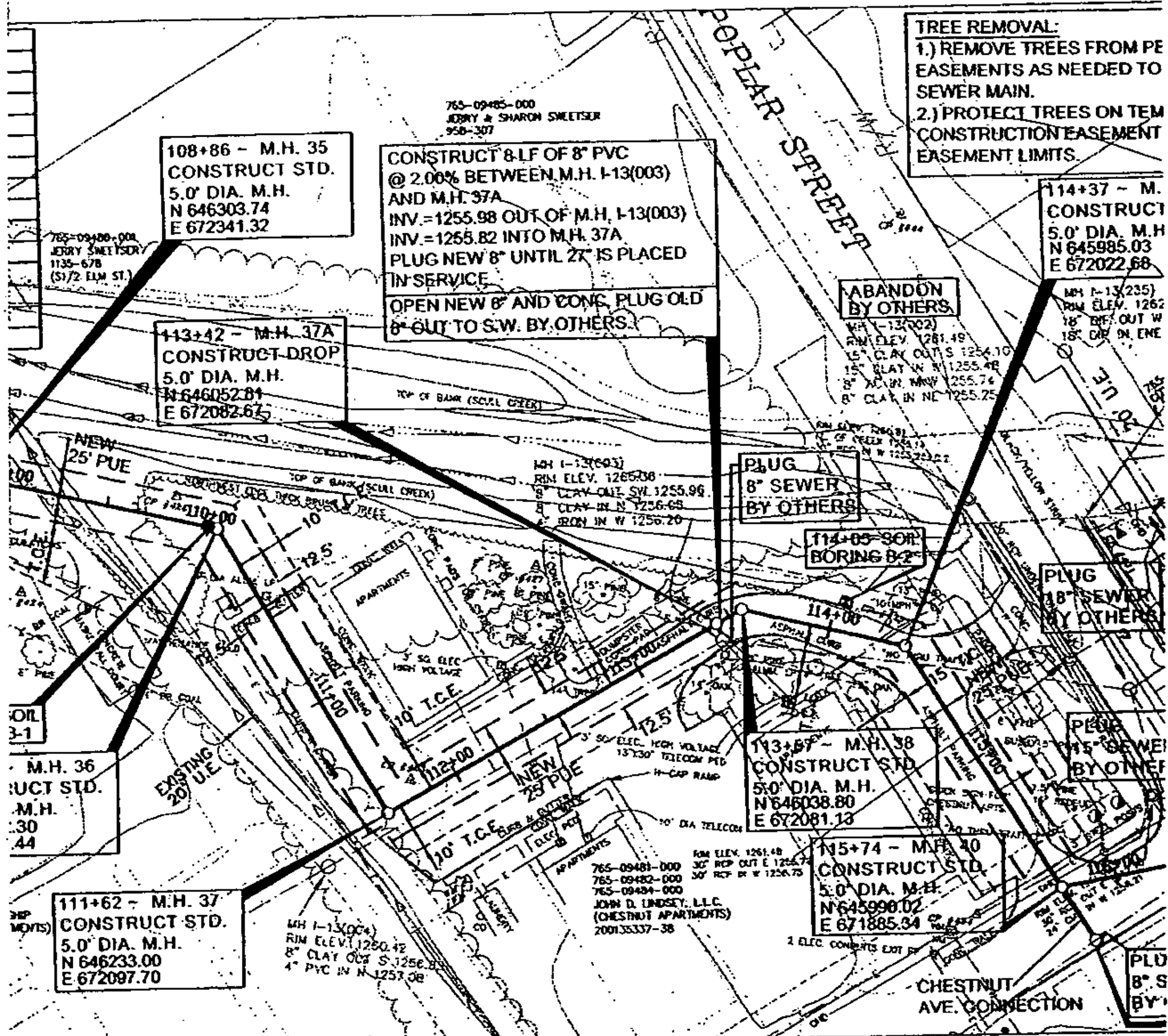
Attachments: Case History Time Line
Plan Sheet Drawing
April 29, 2005 Letter to Owner
October 26, 2005 Letter to Owner
Stamped Appraisal Report
Easement Documents with Drawing
Fax of December 19, 2005 from City Attorney's Office with Engineer Explanation

John D. Lindsey, LLC (Chestnut Apartments)
WL2 - Tract 10
CASE HISTORY

March 30, 2005	Date of appraisal by Mark Risk, the Real Estate Consultants. Land value of \$50,000/acre less 50% discount for floodplain. (Appraisal prepared for Tract 9, also Chestnut Apartments, different ownership. Land value applied to Tract 10.)
April 29, 2005	Offer packet mailed containing letter, easement document, and drawings. Total offer was \$9,500.00 for 0.35 acre perm. esmt. (\$8,750) and 0.30 acre temp. esmt. (\$750). Full fee simple for perm. esmt. and 10% rental for temp. esmt., as based on appraisal amount.
May 9, 2005	Gene Frost, contract negotiator for the City, talked to Kirk Elsass, contact for the LLC. Mr. Elsass didn't think there would be a problem and said he would mail in the easement.
July 8, 2005	Gene Frost called Mr. Elsass to check on easement. Mr. Elsass has concerns about stormwater flow into sanitary sewer which has caused sewer back-up problems in the past. Wants a letter signed by the Mayor stating those problems will be fixed.
Aug-Oct., 2005	Discussed above claims numerous times with David Jurgens. Mr. Jurgens has questions regarding the private lift station on this property which is not fully addressed in the construction plans. Needs info from RJN, McClelland, and OMI before a reply is made to Mr. Elsass. Lift station removal, sewer overflow circumstances reviewed by field personnel, Engineers, and OMI to determine whether or not it would be appropriate for the City to touch the private lift station and to review the design to ensure the new line would eliminate the need for the lift station yet would not conflict with the operation in the interim between installation and activation of the sewer.
Oct. 26, 2005	Side Letter mailed to Mr. Elsass. The new line is expected to correct past back-up problems. Once all new lines are active, the private lift station will be unnecessary.
Nov. 16, 2005	Mr. Elsass called. Wants more money as he disputes it being discounted for floodplain. He stated he would fax counter offer that day. He was informed that the item would be referred to the City Attorney on December 1 if we did not have resolution by December 1.
Nov. 30, 2005	No counter offer received. Info sent to City Attorney's office.
Dec. 1, 2005	Call from Ray Green 12/1/05, 11:15 a.m.
Dec. 1, 2005	David Jurgens left a message with Ray Green's secretary (he was in a meeting) at 11:20 a.m..
Dec. 5, 2005	Call from Ray Green 11:01 a.m.
Dec. 6, 2005	David Jurgens left a message with Ray Green's secretary (he was in a meeting) 4:39 p.m.
Dec. 7, 2005	Call from Ray Green, 3:20 p.m. In his message he stated they had received our correspondence, he feels compensation "significantly too low," feels that taking

this to the agenda is a harsh way to handle it, said they would be at the council meeting and would cite all circumstances including their difficulty in having anyone to have to communicate with about the problem, claimed we've never marked the location, said they didn't know exactly where the easement was located and needed to as soon as possible, implied that we had not met previous requests to locate easement.

- Dec. 7, 2005 Call from David Jurgens to Ray Green, 12/7/05, approximately 3:40 p.m., explained we've marked numerous other sites on request, cited full fee simple, cited history of correspondence, unpleasant call, he was quite rude, I stated we would mark as soon as we could get the surveyors on site.
- Dec 12, 2005 Call from Robert White, McClelland, to Ray Green, 9:30 a.m., to say that the easements across this property have been staked.
- Dec. 19, 2005 Fax from David Whitaker to Ray Green with answers to alignment questions at Chestnut Apartments.
- Dec. 20, 2005 City Council Meeting and Public Hearing.
- Dec 21, 2005 Mark Risk, the appraiser, stated he had never been contacted by anyone from Chestnut Apartments regarding his appraisal.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 29, 2005

John D. Lindsey, LLC
Attn: Kirk Elsass
3900 Front Street
Fayetteville, AR 72703

RE: Project No. 02133
Wastewater Improvements Project
WL2 - Tract 10
Offer Letter

Dear Mr. Elsass:

The City of Fayetteville is under contract to construct a new wastewater treatment plant on the west side of town as well as new gravity sewer lines, pump stations, and force mains associated with this new plant. A twenty-five-foot-wide permanent easement and a temporary construction easement across part of your property are necessary for this project. The temporary construction and grading easement shall terminate when the project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

The City of Fayetteville hereby offers \$8,750.00 for the rights associated with the permanent easement (0.35 acres) and \$750.00 for the rental of the property within the temporary construction and grading easement (0.30 acres), for a total offer amount of \$9,500.00. The permanent easement amount is based on a fee simple value of \$50,000 per acre as determined within the certified appraisal report as prepared by Mark Risk, of the Real Estate Consultants, dated March 30, 2005. However, the fee simple value is discounted 50% due to the easement areas being completely within the FEMA identified flood plain. The temporary easement (rental) amount is figured at 10% of the fee simple value ($\$50,000/\text{acre} \times 50\% \times 10\% = \$2,500/\text{acre}$).

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for the proposed easements. The temporary construction easement area will exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

Should you elect to accept this offer, the *Water/Sewer Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly. Upon receipt of the document, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Water/Sewer Easement* is included for your records. We can provide a copy of the recorded easement upon your request and at the appropriate time. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,



Bob Davis, P.E., CHMM
Water and Wastewater Director

BD/jsg
Enclosures

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

October 26, 2005

John D. Lindsey, LLC
Attn: Kirk Elsass
3900 Front Street
Fayetteville, AR 72703

RE: Project No. 02133
Wastewater Improvements Project
WL2 - Tract 10
Side Letter.

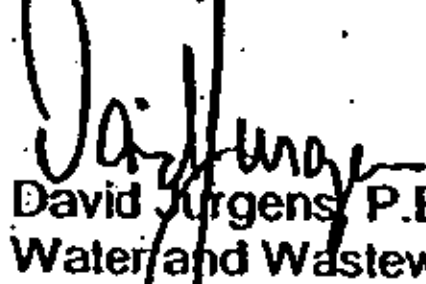
Dear Mr. Elsass:

The City of Fayetteville has reviewed the concerns voiced in your conversations with Gene Frost, contract negotiator for this project. As to the proposed sewer line going through the parking lot at Chestnut II Apartments:

- The proposed new sewer line is expected to correct the sewer back-up problems and leaks which have occurred at this property in the past. If problems continue to occur, please contact me as soon as possible.
- When all the new sewer lines on the west side of town are on line (estimated to be mid 2008), your gravity line will be tied to the new line. Once the new lines are operational, the private lift station at the north end of your property will no longer be necessary.

This letter will become a part of the contract by addendum and will be honored by the contractor working on this project. If you have any questions regarding this project, please don't hesitate to contact either of the Land Agents, Holly Jones at 479-444-3414, or Jill Goddard at 479-444-3407, or I can be reached at 479-575-8330.

Sincerely,


David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg

APPRAISAL REPORT
City of Fayetteville
Complete Summary Appraisal Report
As of the 30th Day of March 2005

PROJECT Wastewater Treatment Plant
LINE # West Line 2
TRACT # 9
COUNTY Washington
PARCEL # 765-09479-000
LOCATION 2084 Chestnut, Fayetteville
FEE OWNER Chestnut, Phase II, LP
ADDRESS 2084 Chestnut, Fayetteville, AR 72703
ESTATE APPRAISED Fee Simple
AREA OF WHOLE 13.826± Acres
AREA OF RESIDUAL 13.354± Acres

TOTAL AREA OF PERMANENT EASEMENT: 20,578± SF or .47± Acre
(Drawing attached)

TEMPORARY CONSTRUCTION EASEMENT (T.C.E.): 24,417± SF or .56± Acre
(Drawing attached)

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

	Before	After
Land	\$ 692,000	\$ 680,250
Improvements	\$3,818,500*	\$3,818,500*
Total	\$ 4,510,500	\$4,498,750

FMV PERMANENT EASEMENT ACQUISITION \$11,750 As of 30th day of March 2005

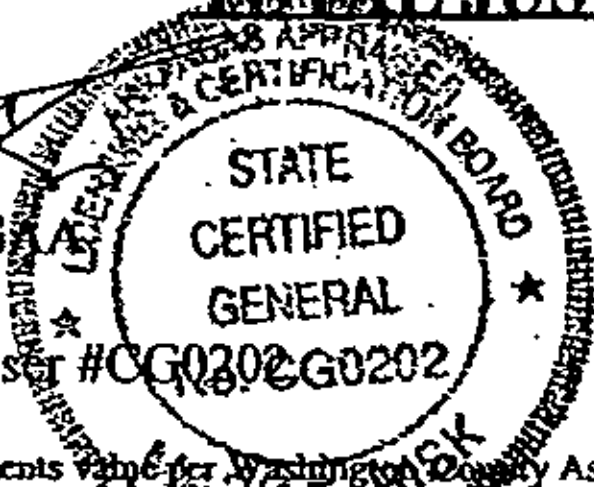
ALLOCATION OF FAIR MARKET VALUE OF TAKINGS:

Permanent Easement-	.47 Acre	@	\$50,000/Acre	x .50	= \$ 11,750****
T.C.E.s	.56 Acre	@	\$50,000/Acre	x .50 x .10	= \$ 1,400**
Landscaping:	Not Applicable				= \$ 0***
Total All Takings-					= \$13,150
Damages or Benefits:	None				\$ 0

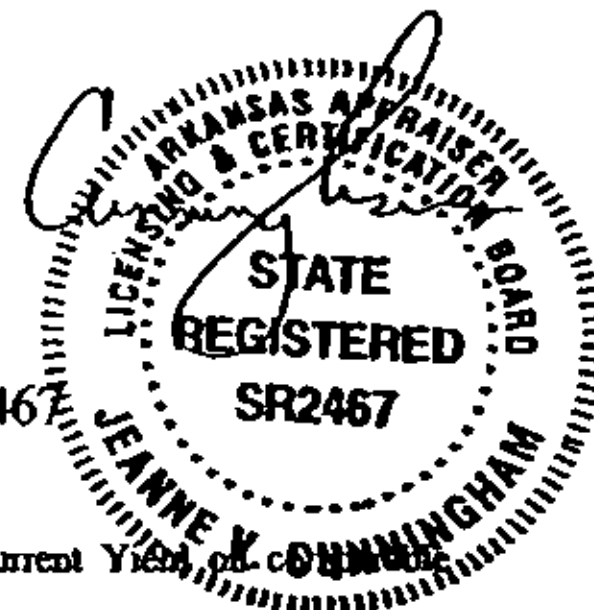
Total Compensation \$13,150

TOTAL JUST COMPENSATION-SAY \$13,150

Mark E. Risk G. AS
State Certified
General Appraiser #CG0202



Jeanne V. Cunningham
State Registered
Residential Appraiser #SR2467



- * Improvements value per Washington County Assessor's office.
- ** Temporary Construction Easement (T.C.E.) value is based upon the fee simple land value multiplied by the Current Yield on construction investments for a one-year period plus a premium for inconvenience.
- *** Assumes no removal or damage to existing landscaping/fencing. Any site improvements in the acquisition area will be moved or replaced.
- **** The taking area in the permanent easement and the T.C.E. are discounted .50 due to being completely within the FEMA Identified Flood Plain.

Parcel No. 765-09481-000
Parcel No. 765-09482-000
Parcel No. 765-09484-000
WL2 - Tract 10

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT John D. Lindsey, LLC, a limited liability company, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2001-035337)

Part of Lots Six (6) and Seven (7) of Block Four (4) of Parker's Plat of Valley View Acres in Section Four (4), Township Sixteen (16) North, Range Thirty (30) West, as shown upon the recorded plat thereof on file in the office of the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: From the platted Southwest corner of said Lot 6 (which is the platted intersection of Poplar Street and Chestnut Avenue) proceed East 25 feet and North 25 feet to the point of beginning; thence North 175 feet, thence East 185 feet, thence South 49.90 feet, thence 46.52 feet along a curve to the right having a radius of 50 feet and a chord bearing and distance of South 26 degrees 39 minutes 09 seconds West 44.86 feet, thence South 53 degrees 18 minutes 17 seconds West 40.17 feet, thence 46.52 feet along a curve to the left having a radius of 50 feet and chord bearing and distance of South 26 degrees 39 minutes 09 seconds West 44.86 feet, thence South 20.34 feet, thence South 89 degrees 43 minutes West 112.54 feet to the point of beginning, containing 0.62 acres, more or less.

Part of Lots 2, 3, 4, 6, and 7 of Block 4 of Parker's Plat of Valley View Acres in Section 4, Township 16 North, Range 30 West, as shown upon the recorded plat thereof in the office of the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: From the platted Southwest corner of said Lot 6 (which is the platted intersection of Poplar Street and Chestnut Avenue), proceed East 25 feet, thence North 25 feet, thence North 89 degrees 43 minutes East 112.54 feet to the point of beginning, thence North 20.34 feet, thence 46.52 feet along a curve to the right having a radius of 50 feet and a chord bearing and distance of North 26 degrees 39 minutes 09 seconds East 44.86 feet, thence North 53 degrees 18 minutes 18 seconds East 40.17 feet, thence 46.52 feet along a curve to the left having a radius of 50 feet and a chord bearing and distance of North 26 degrees 39 minutes 09 seconds East 44.86 feet, thence North 203.85 feet, thence North 83 degrees 30 minutes East 330.80 feet, thence South 41 degrees 51 minutes West 491.08 feet, thence South 89 degrees 43 minutes West 76.48 feet to the point of beginning, containing 1.39 acres, more or less.

Part of Lots 4, 5, 6, and 7 of Block 4 of Parker's Plat of Valley View Acres in Section 4, Township 16 North, Range 30 West, as shown upon the recorded plat thereof on file in the office of the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: from the platted Southwest corner of said Lot 6 (which is the platted intersection of Poplar Street and Chestnut Avenue), proceed East 25 feet and North 200 feet to the point of beginning; thence North 140 feet; thence North 85 degrees 41 minutes 16 seconds East 185.53 feet; thence South 153.95 feet; thence West 185 feet to the point of beginning, containing 0.62 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:

A permanent easement of variable width located in a part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block Four (4), thence South 87° 06' 21" East 40.00 feet, thence North 02° 53' 39" East 67.05 feet to the Point of Beginning, said point being on the East line of an existing 15 foot utility easement; thence along said East line North 02° 53' 39" East 25.00 feet; thence South 87° 55' 05" East 105.52 feet; thence North 47° 23' 23" East 69.42 feet; thence North 04° 52' 33" East 195.28 feet to a point on the South line of an existing 15 foot utility easement; thence along said South line North 88° 34' 55" East 8.60 feet; thence along the East line of said 15 foot utility easement North 02° 53' 39" East 6.26 feet; thence South 86° 07' 02" East 156.58 feet; thence North 46° 31' 02" East 45.44 feet to a point on the North line of the above referenced property; thence along said North line North 86° 23' 39" East 38.99 feet; thence South 46° 31' 02" West 86.33 feet; thence North 86° 07' 02" West 151.30 feet; thence South 04° 52' 33" West 187.49 feet; thence South 47° 23' 23" West 89.42 feet; thence North 87° 55' 05" West 116.15 feet to the Point of Beginning, containing 15,173 square feet (0.35 acre), more or less.

WATER/SEWER EASEMENT
John D. Lindsey, LLC
Page 2 of 3

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A temporary construction and grading easement of variable width is located along a portion of all the sides of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 13,003 square feet (0.30 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

The temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2005.

JOHN D. LINDSEY, LLC

By: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

[SEAL]

WATER/SEWER EASEMENT
John D. Lindsey, LLC
Page 3 of 3

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of John D. Lindsey, LLC, a limited liability company, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2005.

MY COMMISSION EXPIRES:

Notary Public

PUE 10.1 - 15,173 SQ. FT. (0.35 AC.)
TCE 10A - 13,003 SQ. FT. (0.30 AC.)

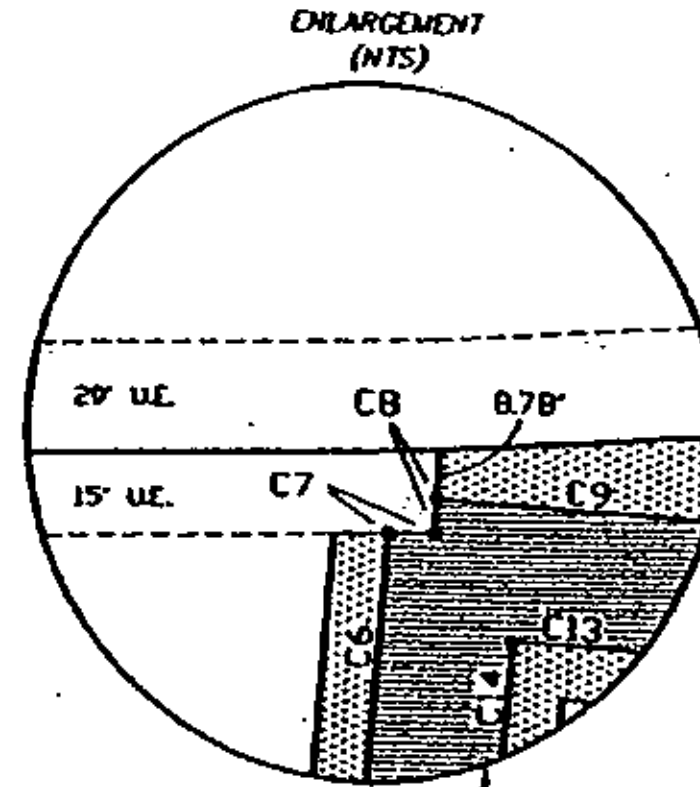
UTILITY EASEMENT PLAT
WL2 TRACT MAP NO. 10
EXHIBIT "A"



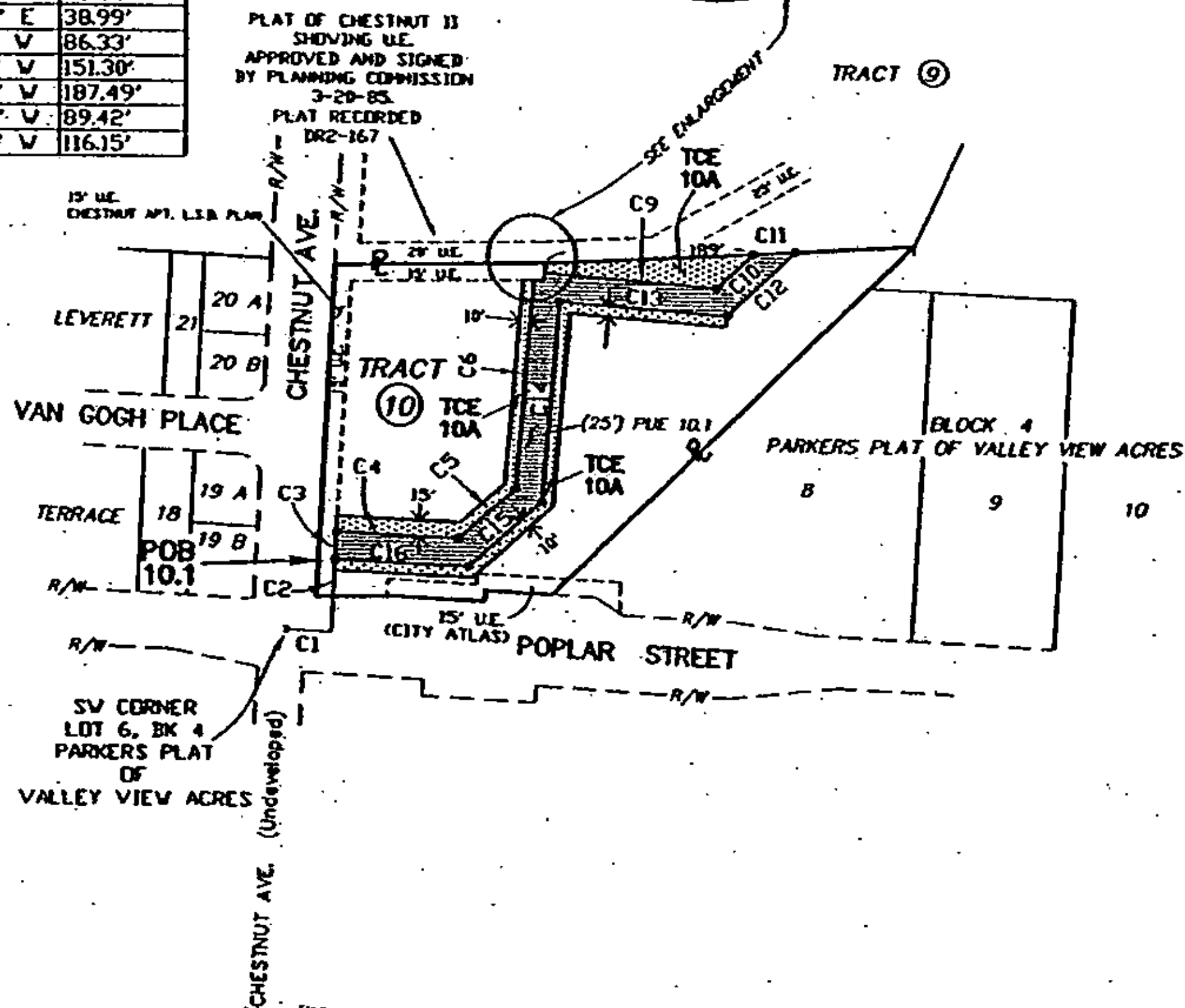
SCALE: 1" = 200'

LINE TABLE

NUMBER	DIRECTION	DISTANCE
C1	S 87°06'21" E	40.00'
C2	N 02°53'39" E	67.05'
C3	N 02°53'39" E	25.00'
C4	S 87°55'05" E	105.52'
C5	N 47°23'23" E	69.42'
C6	N 04°52'33" E	195.28'
C7	N 88°34'55" E	8.60'
C8	N 02°53'39" E	6.26'
C9	S 86°07'02" E	156.58'
C10	N 46°31'02" E	45.44'
C11	N 86°23'39" E	38.99'
C12	S 46°31'02" V	86.33'
C13	N 86°07'02" V	151.30'
C14	S 04°52'33" V	187.49'
C15	S 47°23'23" V	89.42'
C16	N 87°55'05" V	116.15'



Basis of Bearings:
Based on the City of
Fayetteville GPS
Coordinate System



LEGEND

- — Corners of Permanent Utility Easement
- 765-09481&2&4-000 — Tax Parcel Number
- 2001-35337&8 — Deed Record
- Permanent Utility Easement
- Temporary Construction Easement
- - - Existing Utility Easement Line
- P - Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

<i>City of Fayetteville</i> Water & Sewer Department	Property Owner : JOHN D. LINDSEY, L.L.C.		Project Name : Westside Sewer Interceptors		
	Drawn by : McClelland Consulting Engineers		No.	Revisions	Date
	Date: June 2004	Scale : 1" = 200'			
	Project No. 02133-0305	WL2 - Tract No. 10			

CITY OF FAYETTEVILLE

OFFICE OF CITY ATTORNEY

113 WEST MOUNTAIN, #302

FAYETTEVILLE, AR 72701

PHONE: (479) 575-8313

FAX: (479) 575-8315

FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: 479.973.0007

To: Rayburn Green, Attorney at Law - Kutak Rock

From: David J. Whitaker, Assistant City Attorney



Client/Matter: *Chestnut Apartments Sewer Line Routing*

Date: 12/19/2005 2:05:33 PM

Documents Enclosed	Number of Pages*
<i>E-mail from RJN Group, Inc.</i>	1

Comments:

*Not counting cover sheet. If you do not receive ALL pages,
please telephone us immediately at (479) 575-8313

David,

Answers to the questions on Chestnut Apartments sewer line.

Relating to the third question, the entire 400' will not be open at one time, so the parking spaces that are unavailable will be a moving blockage rather than all at once. We are installing, and frequently install, lines in front of businesses, homes, and apartments throughout this project. The contractors will notify residents and managers in advance, and will enable access to all buildings.

>>> tharris <tharris@rjn.com> 12/19/05 10:01AM >>>

Here are the answers to the questions that have been raised regarding the WL-2 project.

1. Why the "dogleg" at the Chestnut portion of the line?
2. Why not continue to follow Scull Creek, instead?
3. Will the job as currently proposed "cut off" ingress and egress to certain apartments during the work? If so, how long?

1 & 2. The dogleg is there because there was not room between the edge of the creek bank and the apartment building to the north to enable construction of the size and type of sewer proposed for that location. Robert's initial intention and effort was to follow along the northern side of Scull Creek all the way. He even had that route surveyed. But following review of the survey and site visit(s), Robert concluded that it is not practical to think that the Contractor could construct the proposed line in the limited space available via that route.

3. The work is not expected to "cut off" ingress/egress to the apartments themselves. Of course, the parking spaces in the vicinity of the work being performed at any particular time will be blocked. I would expect it to be a matter of "inconvenience" rather than being "cut off". Furthermore, the contractor will be expected to backfill (with Class 7 base) the trench as he moves forward with construction and, certainly, he will backfill the trench at the end of each day before leaving the site. Therefore, each affected parking space should only be blocked for a day, or two; and the entire parking lot should be affected for, hopefully, 7 to 10 days. The work involves laying approx. 400 LF of sewer; so, assuming decent weather, etc., the inconvenience should be short-lived.

Thanks,
Tom

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
January 3, 2006**

A meeting of the Fayetteville City Council will be held on January 3, 2006 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A presentation by Dr. Barry Brown on the City of Fayetteville Employee Wellness Program - Agenda Session Only.

A presentation of a Letter of Commendation to the City of Fayetteville and its citizens for their commitment to protect and preserve the water resources of NW Arkansas and NE Oklahoma will be given by Mr. Ed. Fite of the Oklahoma Scenic Rivers Commission.

A. CONSENT:

- 1. Approval of the November 15, December 6, December 20, 2005 City Council meeting minutes.**
- 2. Arkansas Aviation Technology Center:** A resolution granting the City of Fayetteville's consent to the assignment of a Hanger Lease from the Northwest Arkansas Aviation Technologies Center to North West Arkansas Community College.
- 3. Community Access Television, Inc:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the Public Access Television Channel throughout 2006.
- 4. Downing Sales and Service Bid Award #05-82:** A resolution awarding bid #05-82 to Downing Sales and Service for the purchase of two (2) Side Load Solid Waste Collection Trucks in the amount of \$397,908.00.

5. **Equipment Resource Management – Asphalt Roller Equipment:** A resolution approving the purchase of one (1) Large Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$128,490.00 for the use by the Transportation Division; and approving a budget adjustment.
6. **Barloworld Freightliner of Springdale Tri-Axle Dump Truck Purchase:** A resolution awarding Bid #05-80 to Barloworld Freightliner of Springdale for the purchase of one (1) Tri-Axle Dump Truck in the amount of \$95,941.00 for the use by the Transportation Division.
7. **Barloworld Freightliner of Springdale Tandem Axle Dump Truck Purchase:** A resolution awarding Bid # 05-73 to Barloworld Freightliner of Springdale for the purchase of One (1) Tandem Axle Dump Truck in the amount of \$90,233.00 for use by the Water and Sewer Division.
8. **Downing Sales and Service Bid # 05-81:** A resolution awarding Bid # 05-81 to Downing Sales and Service for the purchase of two (2) Front Load Solid Waste Collection Trucks in the amount of \$368,888.00.

B. UNFINISHED BUSINESS:

1. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 and shown in Exhibit "A" generally located north of Huntsville Road, east of Willow Avenue, south of Rock Street and west of Lyton Avenue from RMF-24 Residential Multi-Family 24 units per acre to RSF-8 Residential Single Family 8 units per acre. *This ordinance was left on the First Reading at the December 6, 2005 City Council meeting. This ordinance was Tabled at the December 6, 2005 City Council meeting to the January 3, 2006 City Council meeting.*
2. **Reserve LLC - Cost-Share Agreement:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00. *This ordinance was left on the First Reading at the December 20, 2005 City Council meeting.*
3. **C-PZD 05-1704 First Baptist Church:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1704 First Baptist Church, located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue, containing approximately 4.08 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the December 20, 2005 City Council meeting.*
4. **R-PZD 05-1734 Paradise Point:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1734, Paradise Point, located west of Crossover, south of Joyce Boulevard, containing approximately 1.55 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the December 20, 2005 City Council meeting.*

5. **2006 Bond Purchase Agreement - Wastewater Treatment Facility:** An ordinance authorizing the issuance and sale of not to exceed \$20,000,000 of a Sales and Use Tax Capital Improvement Bond, Series 2006, by the City of Fayetteville, Arkansas for the purpose of financing a portion of the costs of acquiring, constructing and equipping pipelines in connection with a new Wastewater Treatment Facility and related sewerage improvements; providing for the payment of the principal of and interest on the Series 2006 Bond; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2006 Bond; authorizing the execution and delivery of a Continuing Disclosure Agreement ; and prescribing other matters relating thereto. *This ordinance was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*
6. **John D. Lindsey, LLC. Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was Tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **R-PZD 05-1776 Wedington Circle:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.
2. **R-PZD 05-1796 Park West:** An ordinance establishing a Master Development Plan Residential Planned Zoning district titled R-PZD 05-1796, Park West, located at highway 112 east of Deane Solomon Road, containing approximately 139.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
3. **R-PZD 05-1816 Skate Place Condominiums:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 05-1816, Skate Place Condominiums, located south of Ash Street on both sides of Chestnut Street, containing approximately 3.38 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
4. **R-PZD 05-1817 The Commons at Walnut Crossing:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 05-1817, The Commons at Walnut Crossing, located north of highway 62 west, lots 137 & 138 of the approved Walnut Crossing R-PZD, containing approximately 6.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
5. **RZN 05-1833 Bellafont:** An ordinance rezoning that property described in rezoning petition RZN 05-1833 for approximately 25.29 acres located north of Joyce Boulevard, west of Venture Road, and south of Bellafont Gardens from R-O Residential Office and C-2, Thoroughfare Commercial to C-3, Central Commercial.

6. **RZN 05-1834 Vantage Square:** An ordinance rezoning that property described in rezoning petition RZN-05-1834 for approximately 13.47 acres located at lots 6C and 7A in Vantage Square from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office to C-1, Neighborhood Commercial, and C-2 Thoroughfare Commercial.
7. **Garney Construction, Inc:** A resolution awarding a construction contract to Garney Construction, Inc. in the amount of \$4,582,536.60 for construction of the force mains from Hamestring Lift Station to the West Side WWTP (WL-5); and approving a 4% contingency of \$183,000.00.
8. **Amend Chapter 151 & 164:** An ordinance amending the Unified Development Code Chapter: 151 definitions and Chapter: 164 Supplementary Zoning Regulations to clarify and designate the intent of the accessory structures and uses ordinance.

D. INFORMATIONAL:

Council Tour: None (City Holiday)

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

1/3/2006

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

Airport

Department

Action Required:

Approve an Assignment of Lease agreement to transfer the lease with Arkansas Aviation Technology Center to the Northwest Arkansas Community College.

REVENUE

\$ 54,000.00
Cost of this request

\$ 442,448
Category / Project Budget - 2006

Chgs - Serv
Program Category / Project Name

5550.0955.4450.00
Account Number

\$
Funds Used to Date

Airport Revenue
Program / Project Category Name

Project Number

\$ 442,448
Remaining Balance - 2006

Airport
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

 12/15/05
Department Director Date

Previous Ordinance or Resolution # 103-02

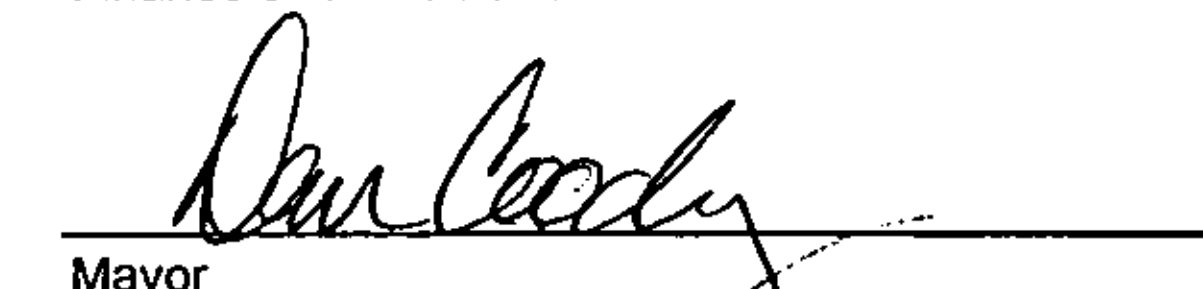
Original Contract Date: 7/3/2002

 12/16/05
City Attorney Date

Original Contract Number:

 12/16/05
Finance and Internal Service Director Date

Received in City Clerk's Office


 12/16/05
Mayor Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO:

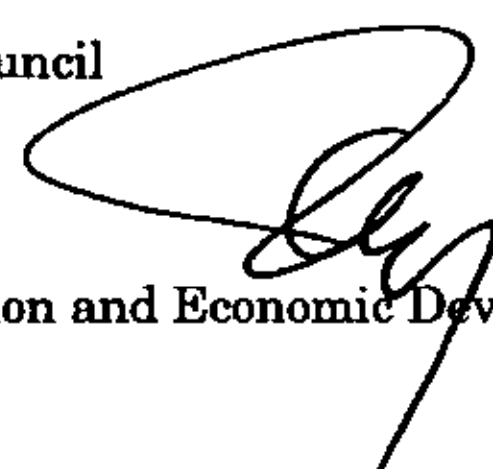
TO: Mayor and Members of the City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: December 9, 2005

SUBJECT: Approve assignment of lease agreement with the Arkansas Aviation Technology Center to the Northwest Arkansas Community College for their facility on Fayetteville Municipal Airport, Drake Field.



RECOMMENDATION: Approve assignment of the lease agreement with the Arkansas Aviation Technology Center (AATC) to the Northwest Arkansas Community College (NWACC).

BACKGROUND: The AATC recently partnered with the NWACC and it considered to be a win-win combination. Both Boards agreed to the merger as there are many benefits with this arrangement. First the cost to the student will be reduced. Second, the marketing profile of the program will increase and result in more students registering in the program. And third, the employees of AATC will receive the benefit of being employees of the State. This has always been the goal of the AATC from its inception. The creation of a Washington County presence at the former West Campus facilitated this agreement and got the process off dead center.

DISCUSSION: This action is necessary as part of the acquisition of AATC by NWACC. The AATC will remain much the same as in the past and the FAA program certification will remain with AATC. Should the program move or change in any substantial way, the whole process must be repeated. The POC for the lease will remain with the AATC Director. They have excluded paragraph 12 of the lease since the lessee is an institution of the State of Arkansas.

BUDGET IMPACT: The AATC pays \$4,500.00 per month rent and pays utilities and maintenance on the building. The date of the lease is July 1, 2002 and has three 5 year options. AATC signed option #1 on July 1, 2004 which expires June 30, 2009.

Attachments: Staff Review Form
Assignment of Lease
Original Lease

RESOLUTION NO. _____

A RESOLUTION GRANTING THE CITY OF FAYETTEVILLE'S
CONSENT TO THE ASSIGNMENT OF A HANGAR LEASE FROM
THE NORTHWEST ARKANSAS AVIATION TECHNOLOGIES
CENTER TO NORTH WEST ARKANSAS COMMUNITY
COLLEGE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas,
hereby consents to the assignment of a Hangar Lease from the Northwest
Arkansas Aviation Technologies Center to North West Arkansas Community
College. A copy of the assignment, marked Exhibit "A" is attached hereto and
made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas,
hereby authorizes the Mayor and City Clerk to execute the Consent to
Assignment, a copy of which, marked Exhibit "B" is attached hereto and made a
part hereof.

PASSED and APPROVED this 3rd day of January, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

ASSIGNMENT OF LEASE

FOR VALUABLE CONSIDERATION, the undersigned Northwest Arkansas Aviation Technologies Center, as Assignors, do hereby sell, set over, transfer and assign unto North West Arkansas Community College, as Assignee, all of their right, title, and interest in and to that certain Lease dated July 3rd, 2002, with Option #1 dated April 22nd, 2004, and effective from July 1st, 2004 to June 30th, 2009, between City of Fayetteville, Arkansas, as Lessor, and Northwest Arkansas Aviation Technologies Center, as Lessee, covering the following described real property:

The Hangar Facility located on Drake Field, Fayetteville at address 4248 South School Avenue, Fayetteville, Arkansas.

Lessor consents to the assignment of the Lease to Assignee as requested.

This Assignment shall commence on January 1, 2006. Assignor shall be responsible for covenants, obligations (including, but not limited to, the duty to pay rent), conditions and agreements contained in the Lease arising prior to January 1, 2006, and the Assignee shall be responsible for covenants, obligations (including, but not limited to, the duty to pay rent), conditions and agreements contained in the Lease arising on and after January 1, 2006.

It is agreed and understood that Lessee is not in violation of any terms of the Lease at the time of this Assignment.

Lessor and Assignee agree that paragraph 12 of the Lease shall be and is hereby deleted.

WITNESS our hands and seals this 8 day of DECEMBER 2005.



Assignor Signature
Board Chair NWATC



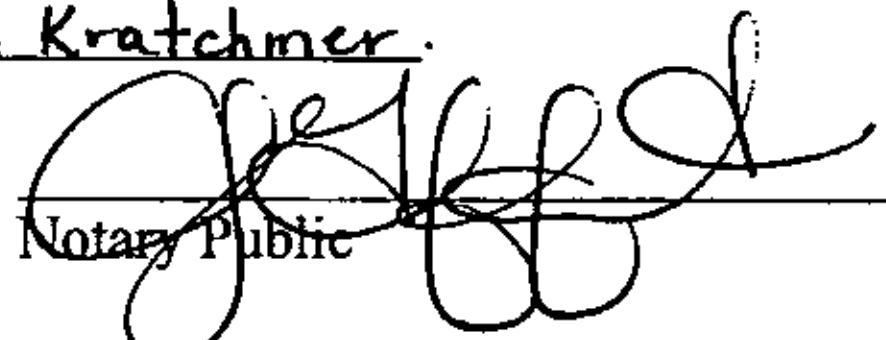
Assignor Signature
EXECUTIVE DIRECTOR, NWATC

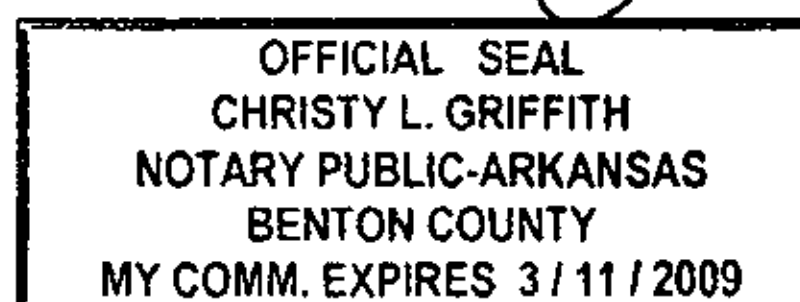
STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

This instrument was acknowledged before me on December 8, 2005 by
Kent Williamson and Michael Kratchmer.

My Commission expires:

3-11-2009


Notary Public



ACCEPTANCE OF ASSIGNMENT

The undersigned Assignee, North West Arkansas Community College, designated in the foregoing Assignment of the therein described Lease, hereby accept and approve the same and unconditionally agree to be bound by and comply with all the terms, conditions and covenants thereof.

Witness my hand and seals this 8th day of December, 2005.

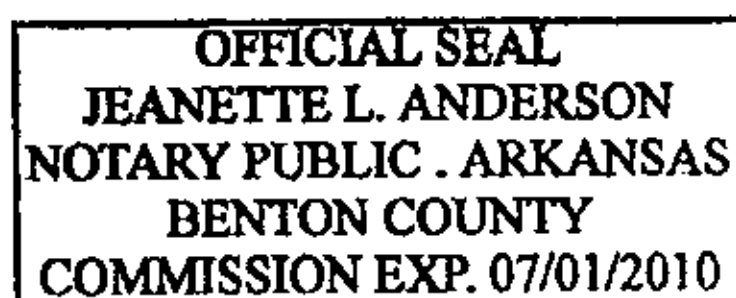

(Assignee Signature)

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

This instrument was acknowledged before me on December 8, 2005, by
Becky Panritz

My Commission expires:


Notary Public



CONSENT TO ASSIGNMENT

THE CITY OF FAYETTEVILLE, ARKANSAS a public entity in the State of Arkansas,
do hereby:

1. consent to the foregoing Assignment and Acceptance between Northwest Arkansas
Aviation Technologies Center, as Assignors, and Northwest Arkansas Community
College, as Assignee.

WITNESS my hand and seal this _____ day of _____, 20_____.

CITY OF FAYETTEVILLE, ARKANSAS

By: Dan Coody, Mayor

ATTEST:

By: _____, City Clerk

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

This instrument was acknowledged before me on _____, 20 by
_____ and _____.

My Commission expires:

Notary Public

RES. 103-02

EXECUTIVE HANGAR LEASE AGREEMENT

This LEASE AGREEMENT made this 3rd day of July, 2002, between the City of Fayetteville, Arkansas, hereinafter called "the City", and Northwest Arkansas Aviation Technologies Center of 4248 S. School, Fayetteville, Arkansas 72701, hereinafter called "AATC".

WHEREAS, the City is the owner of an airport known as the Fayetteville Municipal Airport (Drake Field), herein referred to as the "Airport"; and

WHEREAS, the City is the owner of a facility at the Airport; and

WHEREAS, AATC desires to lease this facility.

NOW, THEREFORE, the parties, in consideration of the mutual covenants contained herein, hereby agree as follows:

1. The City leases to AATC, and AATC leases from the City, the facility located at 4248 South School Avenue, Fayetteville, Arkansas 72701 as reflected on Exhibit "A" attached hereto and made a part hereof.

2. AATC is granted the use, without charge, in common with others similarly authorized, of the Airport, together with all facilities, equipment, improvements, and services which have been or may hereafter be provided at or in connection with the Airport from time to time including, but not limited to, the landing field and any extensions hereof or additions thereto, roadways, not less than one hundred (100) auto parking spaces, runways, ramps (including noise barriers), aprons, taxiways, flood lights, landing lights, beacons, control tower, signals, radio aids, and all other conveniences for flying, landings and take-offs.

3. AATC shall have at all times the full and free right in ingress to and egress from the demised premises and facilities referred to herein for AATC, its employees, students, guests, and other invitees. Such rights shall also extend to persons or organizations supplying materials or furnishing services to AATC.

4. Subject to earlier termination as hereinafter provided, the initial term of the Lease Agreement shall be for a period of two (2) years commencing on the 1st day of July, 2002 (the effective date hereinafter referred to as the "Commencement Date") and ending on the 30th day of June, 2004. The City further agrees to extend this Agreement for three additional five (5) year terms.

The parties agree that the rental to be effective as of the commencement of the first renewal term shall be \$4,500.00 per month, or as negotiated by the parties for each of the subsequent renewal terms shall be equal to the rate as adjusted by the CPI Index, as defined to mean the monthly index published by the United States Department of Labor, Bureau of Labor Statistics. Consumer Price Index for all Urban Customers (CPI-U) Dallas-Fort Worth, Texas - All Items (1982-1984=100). Index utilized shall be at that most recently published prior to the renewal date by the formula at Attachment #1.

5. AATC agrees to pay the City for the use of the demised premises, facilities, rights, and privileges granted hereunder the sum of \$3,750.00 per month during the initial Lease term. The initial Lease payment is due and payable in advance upon the Commencement Date and all subsequent monthly Lease payments shall be due and payable in advance on or before the first (1st) day of each calendar month thereafter.

6. The City shall maintain and keep in good repair so much of the Airport premises as is not under the exclusive control of AATC.

AATC shall be responsible for the lawn care and the appearance of outside grounds of the facility.

7. AATC shall provide for and supply at its expense all janitor service with respect to the demised premises, and shall pay for all utilities serving the demised premises.

8. AATC agrees to observe and obey the City's Ordinances and Regulations with respect to use of the demised premises and Airport; provided, however, such rules and regulations shall be consistent with safety and with all local, city, county, and state rules and regulations, including all current fire codes, and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport. AATC shall be subject to the Airport's "Minimum Standards for Commercial Aeronautical Activities at Drake Field" which are incorporated herein by reference thereto and made a part hereof as if set out word for word. The City warrants and covenants unto AATC that no hazardous or any other substances, as defined in 40 CFR 302, exist on the demised premises which are restricted, prohibited or penalized by an "Environmental Law", which term shall mean any federal, state or local law, regulation or ordinance relating to pollution or protection of the environment. If any testing or study discloses the existence of an hazardous substances on the demised premises that are determined to have been present on the demised premises prior to the execution of this Lease, it shall be the City's responsibility to timely arrange and pay for any costs associated with environmental testing and /or studies, remedial action, cleaning up or removing the hazardous substances to a proper disposal site in accordance with all applicable laws and the governmental agency having jurisdiction thereof.

9. The City authorizes AATC to use the premises for the implementation and conducting of an Aviation Maintenance Technology Program, including but not limited to, the provision of such

training and educational components as are required for an airframe and power plant certification by the Federal Aviation Administration under FAR 147. Subject to the prior written approval of the City, which shall not be unreasonably withheld; AATC shall also have the right to use the demised premises for other purposes ancillary or related to AATC's operations. Aircraft, aircraft components and sub-components, vehicles, equipment, materials and or supplies necessary to the training program may be stored on the demised premises. AATC further agrees to store flammable material only in approved containers, and not to violate the provisions of the City's standard commercially available property damage insurance policy. Any such violations shall constitute a material breach of this agreement.

10. If the demised premises are partially damaged by fire or other casualty which is not due to the negligence or fault of AATC, said premises shall be repaired with due diligence by the City at the City's expense. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored. If the demised premises are completely destroyed, the City may reconstruct the hangar at the City's own cost and the rent payable hereunder shall be adjusted as set forth above, or either the City or AATC may at its option, cancel this agreement, such cancellation to be effective as of the date the hangar was destroyed, and the rent adjusted as set forth above.

11. The City shall procure and maintain in force during the term of this Agreement fire and extended coverage on the facility in an amount equivalent to the replacement cost thereof. AATC shall be required to insure any contents within the facility.

During the term of this agreement AATC shall at all times maintain general public liability insurance in the amount of \$1,000,000.00. AATC shall file with the City's Airport Manager Certificates of Insurance evidencing the insurance coverage required hereby.

12. AATC agrees to indemnify the City against any liability for injuries to persons or damage to property caused by AATC's gross negligent use or occupancy of the leased premises; provided, however, that AATC shall not be liable for any injury, damage or loss occasioned by the negligence of the City or its agents or employees, and provided further, that each party shall give prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect either party, and each party shall have the right to compromise and defend the same to the extent of its own interest. This clause shall not be construed to waive that tort immunity as set forth under Arkansas Law.

13. Improvements: The City shall bear the cost of maintenance of the basic building structure area including, but not limited to: (i) floors, walls, ceiling and roof; (ii) sprinkler system; (iii) all plumbing and fittings thereto; (iv) primary electrical circuits; (v) heating, ventilation and air conditioning (HVAC); (vi) maintenance of existing paved ramp and parking lots; and (vii) existing perimeter fences. AATC shall bear the cost of all improvements or additions made to the interior of the building for new classrooms and /or labs. No improvements or additions to any part of the leased premises shall be made by Lessee without the prior written approval of the Airport Manager. Any signs to be erected on or attached to the leased premises must have the prior written approval of the Airport Manager and conform to all City ordinances.

14. Maintenance: The City shall be responsible only for major maintenance of the existing equipment, i.e. replacement of heating unit and other equipment installed by the City which

includes roof, exterior walls and exterior plumbing, HVAC, existing paved ramp, and paved parking lots. The City agrees that if the roof or any part of the exterior walls or exterior plumbing of said building thereof shall become defective or damaged at any time during the term due to ordinary wear and tear and not due to negligence of the AATC, or AATC's agents or invitees, upon notice from AATC, the City will immediately cause repairs to be made and restore the defective portions to good condition. Routine maintenance of the garage aircraft doors shall remain the responsibility of the City.

15. If AATC fails to make any payment due hereunder within thirty (30) days of the date on which such payment is due, The City may, at its option, terminate this Agreement and take possession of so much of AATC's personal property as is reasonably necessary to secure payment of the amount due and unpaid. The City shall also have the right to terminate this Agreement in the event Lessee breaches any other terms of this Agreement: provided, however, no breach shall be deemed to exist unless AATC fails to cure said breach within thirty (30) days after receipt of written notice thereof. As to curing of a breach (other than the payment of rent) which would reasonably require a greater period of time for curing than is provided for above, if AATC shall, within the time stipulated, commence such curing and diligently pursue same, then the above time period shall be extended to allow AATC reasonable opportunity to complete said cure.

16. On the expiration or other termination of this Lease, AATC's right to use the demised premises shall cease, and AATC shall vacate the premises without unreasonable delay. All permanent interior structures installed, erected, or placed by AATC in, on, or about the premises leased hereunder shall remain the property of the City.

17. The City may enter the premises leased to AATC at any reasonable time for any

purpose necessary or incidental to the performance of its obligation.

18. AATC shall maintain the demised premises in a clean and orderly fashion at all times.
19. AATC shall not start or operate aircraft engines within the facility leased hereby and shall not allow such operations by any other person.
20. AATC shall not at any time assign this lease or sublet the demised premises without the prior written consent of the City.
21. Any notice or consent required by this Agreement shall be sufficient if sent by Certified Mail, return receipt requested, postage paid, to the following address:

LESSOR: Airport Administration Office
4500 S. School, Suite F
Fayetteville, Arkansas 72701
PH: 479-718-7642

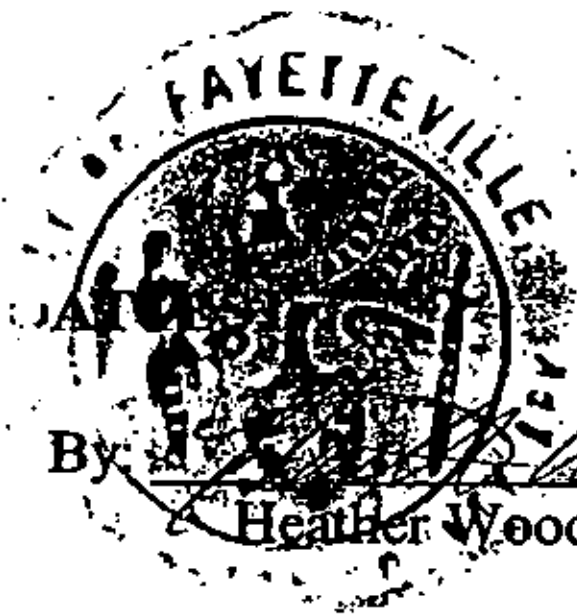
LESSEE: Executive Director
Arkansas Aviation Technologies Center
4248 S. School Avenue
Fayetteville, Arkansas 72701
PH: 479-443-2283

23. This Agreement shall be construed under the laws of the State of Arkansas.
24. All the covenants, conditions, and provisions under this agreement shall extend to

and bind the legal representatives, successors, and assigns of the respective parties
hereof.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first
above written.

CITY OF FAYETTEVILLE, ARKANSAS



By: _____

Dan Coody, Mayor

By: _____

Heather Woodruff, City Clerk

ARKANSAS AVIATION TECHNOLOGIES CENTER:

By: _____

Name

Title: _____

EXECUTIVE DIRECTOR

ATTEST:

By: _____

Michael D. Kratimer

Title: _____

DIRECTOR OF EDUCATION, AATC

LEASE ATTACHMENT NUMBER ONE

Rent adjustments shall be made as of the commencement of each of the Dates Upon Which Rent Increases Apply and shall be determined by the following formula:

Rent as last so increased under this Lease

multiplied by:

$1 + \frac{\text{Current Index} - \text{Base Index}}{\text{Base Index}}$

plus:

one percent (1%) of the Rent as last so increased under this Lease

Where, "Current Index" shall be the CPI (D-1 Consumer Price Index-All City Average, "all items groups, subgroups and special groups," published monthly in the Monthly Labor Review of the Bureau of Labor Statistics of the United States Department of Labor) for the month immediately prior to the applicable Dates Upon which Rent Increases Apply, and Base Index shall be the CPI for the month immediately prior to the Commencement Date or the most recent Dates Upon Which Rent Increases Apply, whichever is applicable. In no event, however, shall the Rent for any period be less than the Rent as last so increased under this Lease. In the event that such CPI is no longer published or otherwise available, the adjustment provided for herein shall be by the successor (or the most nearly comparable successor index) thereto, adjusted as appropriate to the applicable dates.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

1/3/2006

City Council Meeting Date

Susan Thomas

Submitted By

Public Information

Division

General Government

Department

Action Required:

A resolution to approve a contract with Community Access Television, Inc. to operate the Public Access Channel throughout 2006 for \$93,000.

\$ 93,000.00

Cost of this request

\$ 93,000.00

Category / Project Budget

Services & Charges

Program Category / Project Name

1010.6600.5713.00

Account Number

\$

-

Funds Used to Date

Miscellaneous

Program / Project Category Name

\$

93,000.00

Remaining Balance

General

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

12/16/2005

Date

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Susan Thomas, Public Information & Policy Advisor

Date: December 16, 2005

Subject: CAT Contract for Public Access Channel

RECOMMENDATION

Approval of the attached contract between the City of Fayetteville and Community Access Television in the amount of \$93,000 to operate the public access channel from January 1, 2006 through December 31, 2006.

BACKGROUND

The Public Access Channel is one of three channels provided by Cox Communication as a part of the franchise fee agreement between the City and Cox. Community Access Television, Inc. (CAT) is the current public access provider for the City. The City organized a committee to select an organization to provide Public Access services. The members of the committee included Brenda Thiel (City Council), Susan Thomas (Public Information Staff), Stacy Kirk (Finance Department representative), Angie Graves (Telecom Board), and Rick Craig (Citizen representative). Marvin Hilton, Cable Administrator served as a non-voting member of the committee. The City issued an RFP for Public Access Service on November 11, 2005 (RFP #05-34). The City received two proposals which were both opened on December 5, 2005. Both organizations were interviewed on December 9, 2005, and the committee unanimously agreed to recommend that City Council award the public access contract to CAT.

DISCUSSION

The Telecommunications Board met on Wednesday December 14, 2005 to review, revise, and approve contract for recommendation to Council. The Telecom Board recommended a handful of changes to the contract.

Some changes in the contract were in response to changes made in the RFP. For example in Section 1-F-2, the minimum number of producers required has been changed from 20 to 40. The most substantive changes came in Sections 1-D-2, 1-D-3 and 1-H-7. The changes in Section 1-D were made to clarify the City's policy related to cable-casting fundraisers. The contract now allows CAT to cable-cast two fundraisers specifically for CAT and no more than four fundraisers for other non-profits.

The Telecom Board did not reach a consensus on new language for Section 1-H. However, there was agreement that all requests for additional information/reporting from CAT, other than regular quarterly reporting information, should be filtered through the Telecom Board. The

reason for this is based on the widespread belief that the Cable Administrator has made unreasonable demands for information and reports from CAT to the point that it is interfering with CAT's ability to perform their duties under the contract. It should be noted that the Cable Administrator has stated on several occasions that the information he is requesting is for quarterly reports. The discussion of this matter ended with the Telecom Board committing to outline specifically what information was needed from CAT for the City's quarterly report. That information, along with due dates, will be given to CAT by the Telecom Board in January. The Telecom Board has asked that the language in the contract be adjusted to reflect the requirement that all requests for additional information other than what is specifically outlined and assigned for quarterly reports should be directed through the Telecom Board.

All other changes were minor such as changing dates and updating general information.

BUDGET IMPACT

The full amount of \$93,000 is included in the adopted 2006 budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT OF \$93,000.00 WITH COMMUNITY ACCESS TELEVISION, INC., TO OPERATE THE PUBLIC ACCESS TELEVISION CHANNEL THROUGHOUT 2006.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract in the amount of \$93,000.00 with Community Access Television, Inc. to operate the public access television channel throughout 2006. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 3rd day of January, 2006.

APPROVED:

By:

DAN GOODY, Mayor

Attest:

By:

SONDRA SMITH, City Clerk

CONTRACT BETWEEN CITY OF FAYETTEVILLE, ARKANSAS
AND
COMMUNITY ACCESS TELEVISION (CAT)
A 501-C-3 NONPROFIT ORGANIZATION

AGREEMENT

This Agreement is made this _____ day of _____, 2006, by and between the City of Fayetteville, a municipal corporation ("City"), and Community Access Television, a nonprofit corporation ("CAT"), who agrees as follows:

PURPOSE AND INTENT

1. The City desires to provide support for the use of cable television public, educational, and government ("PEG") access channels provided pursuant to federal law.
2. The purpose of the public access television is to provide training for the public for public access television productions and to ensure "first-come, first-served, non-discriminatory" programming, in accordance with the First Amendment, as a limited public forum for citizens.
3. This contract for the public access television station is contingent upon the City retaining a franchise contract with a cable operator, such as it is at present.
4. The franchise agreement with Cox Cable Company provides that certain channel capacity be provided for PEG access for non-commercial programming.
5. The City's Telecommunications Board Ordinance #4504 provides for a standing body to advise the City Council on telecommunications issues and to coordinate and oversee use of the public rights of way designated for public, educational, and governmental use on any telecommunication system serving the City of Fayetteville.
6. The City has determined that it will provide support for PEG access and that it will provide physical space and equipment located at the PEG Center, 101 W. Rock Street, Fayetteville.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. In exchange for the funding provided by the City to CAT, pursuant to this Agreement, CAT shall provide the following services and report progress in each area to the Telecommunications Board on a quarterly basis:

A. OPERATE PUBLIC ACCESS CABLE CHANNEL. Operate the public access cable channel for non-commercial, public/community access programming purposes in a manner that is consistent with the principals set forth in this contract and the Telecommunications Board Ordinance. CAT will:

1. Devise and monitor equipment check-in, check-out procedures and provide reports quantifying the amount of usage
2. Schedule and monitor editing facilities and studio, maintaining scheduling records, and coverage documents, should any request for review be required
3. Operate the public access channel facility for a minimum of 40 hours per week easily accessible to the citizens of Fayetteville.
4. Have at least one staff member present during the required customer service hours to assist citizens with their productions.

B. PROVIDE EQUAL ACCESS. CAT will honor the First Amendment rights of members of the community who wish to use the public access station. CAT will provide access to the use of the equipment, facilities, channel, and services provided hereunder to all members of the community for non-commercial programming purposes, whether individuals, groups, or organizations, on a first-come, first-served non-discriminatory basis, pursuant to operating rules promulgated by CAT which are in compliance with the City's operating rules for the PEG Center (Addendum A).

C. OPERATING POLICIES AND PROCEDURES. CAT policies for the use and operation of the public access channel shall be in compliance with the City's operating rules of the PEG Center. CAT will file such policies with the Telecommunications Board and the City, and any changes in CAT policies will be posted on the web site and presented to the Telecommunications Board and the City as an informational item 15 days prior to implementation. CAT will:

1. Devise and maintain administrative policies
2. All communication between the City and the CAT with regard to contractual matters will be directed through the Cable Administrator, or any other such representative as may be appointed by the City, and the CAT's duly appointed representative. In the event of a disagreement over the administration of this agreement, either party may appeal to the Telecommunications Board who shall make recommendations to the Mayor or City Council, as may be required.

D. DEVELOP FUNDING – CAT will develop a plan for generating revenue at a minimum of 25% of the amount provided by the City, in order to subsidize additional growth.

1. CAT will develop a general underwriting policy
2. CAT will cablecast two CAT specific fundraising events per year
3. CAT shall not cablecast more than four fundraising events per year for other 501(c) (3) non-profit organizations that provide services in the cablecast area.
4. CAT will seek and devise a timely procedure for solicitation and collection of donations and other contributions to be recorded on a monthly budget process. These procedures could include, but not be limited to, telethons, web-based donation collections, etc.

E. COMPLIANCE WITH LAWS RULES, AND REGULATIONS. CAT will administer the public access channel and facilities in compliance with the Telecommunications Board Ordinance, with applicable laws, rules, regulations, and with the franchise agreement between the City and Cox Cable Company. All business and information maintained by CAT or the CAT Board of Directors is subject to the terms of the Arkansas Freedom of Information Act (FOIA).

F TRAINING AND PROMOTION. CAT will train city and area residents in the techniques of video production, and provide technical advice in the execution of productions. CAT will:

1. Create and provide training curriculum to emphasize video proficiency and production quality in public access programming
2. Certify a minimum of 40 new first time local producers per year
3. Include public service requirement as part of the certification process that results in at least one cablecast quality program per trainee
4. Promote the use of the Public Access channel to the extent that 500 new locally produced programs are cable casted per year. Only the following categories of program sources will be included:
 - a. Programs made by Independent CAT Producers whether or not they use CAT facilities
 - b. Programs made by local citizens who are not Independent CAT Producers
 - c. Programs produced by CAT for the purpose of allowing local citizens to express themselves. Such programs shall be open to participation by all citizens on an equal basis
 - d. Programs produced by independent producers using CAT contract production services
5. Encourage the use of the digital video editing capabilities and stay abreast of emerging technologies

6. Create a monthly schedule of relevant workshops to publish on the public access television channel's bulletin board and its web site.

G. **PLAYBACK/ CABLECASTING.** CAT will provide for playback/cablecasting of programs on the public access channel. CAT shall cablecast a minimum of 40 hours of local original, replayed and imported programming per week. This excludes the community message board. CAT will:

1. Develop a policy and method for the scheduling of public access programs and cablecast programs on the public access channel
2. Maintain accurate cablecast logs and report number of programs per month in each of the categories specified by the operating and programming policy
3. Maintain a library of all produced shows to be available for review and use at the PEG Center
4. A copy of all live and/or recorded programs are required to be held for 4 days past the original date of play if said programs are not submitted to the videotape library
5. CAT shall require local access producers/requesters to sign an agreement warranting that the program they are submitting does not contain:
 - a. any violation of any state or federal law relating to obscenity
 - b. any material that is libelous, slanderous, or other defamation of character, or an unlawful invasion of privacy
 - c. any advertising or material which promotes any commercial product or service
 - d. any use of material which violates copyright law; or any material contrary to local, state or federal laws, regulations, procedures and policy

H. **INFORMATION.** CAT shall submit quarterly and annual reports, as defined by the Telecommunications Board, on the operations of the public access channel and other such special reports as listed below to the Telecommunications Board and the City.

1. Reports of stolen or damaged equipment within one working day of learning of each occurrence
2. Requests for changes in any procedures or rules pertaining to protection or preservation of City owned equipment and facilities
3. All corporate documents, including but not limited to the CAT's by-laws, articles of incorporation, certification of compliance with affirmative action plan and EEO standards, and a list of Board members
4. At any reasonable time and as often as the Telecommunications Board or the City may deem necessary, the CAT shall make available to them, or any of its authorized representatives, all of CAT's records related to all matters covered by this Agreement and shall permit the Telecommunications Board or the City to audit, examine, make excerpts and copies of such records, and to make audits of all contracts, invoices,

materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Contract

5. During the term of this Contract, the CAT shall cause to be delivered to the Telecommunications Board and the City copies of all notices of meetings of its Board of Directors, setting forth the time and place thereof. Such notice shall be delivered in a timely manner to give adequate notice and shall also include an agenda
6. Minutes of all meetings, if taken, and materials distributed in meetings of the CAT's Board of Directors, or committees thereof, shall be submitted to the Telecommunications Board and the City
7. At such times and in such form as the Telecommunications Board or the City may require, the CAT shall furnish such statements, records, reports, data and information deemed pertinent to matters covered by this Agreement.

I. PROMOTION. CAT will actively promote the use and benefit of the public access television station and facilities to cable subscribers, the public, and Cox Cable Company.

1. Maintain web site for publication of all reports and scheduled events
2. Create a quarterly newsletter distributed via mail and direct delivery to members, producers and associates.
3. Provide promotional spots/bulletin boards on the station that promote the use and benefits of the public access television station and facilities to cable subscribers and the general public.

SECTION 2. PERFORMANCE. CAT will be evaluated through quarterly evaluations, and an annual performance review.

- A. Quarterly evaluations will be performed in accordance with the criteria set by the Telecommunications Board, consistent with the process for oversight as specified in the Telecommunications Ordinance
- B. A Performance Review shall be conducted by CAT and presented to the October meeting of the Telecommunications Board in order to ensure timely delivery of information to the City Council during annual budget review:
 1. This review shall include an opportunity for CAT public access users and cable subscribers to provide input. In turn, the Telecommunications Board will evaluate the CAT Performance Review, basing the evaluation on the terms of this contract and citizen input. The Telecommunications Board will present its performance assessment and recommendations to the City Council in November and begin the process of negotiation for the following contractual year that begins January 1.

2. All Telecommunication Board findings and recommendations regarding the Performance Review will be provided as feedback to CAT. In the event that the Board recommendation is for non-renewal of the CAT contract, an exit interview will be conducted to discuss all relevant facts.

SECTION 3. USE OF CITY PROPERTY/ OWNERSHIP. CAT recognizes that it is performing services for the City on City-owned property and that while on such property, CAT shall not engage in any activity that is not directly related to the services provided pursuant to this Agreement. Ownership title to all capital acquisition, supplies, material or any other property purchased with funds received under this Contract, is vested with the City, and possession of such property shall, upon termination of the Contract, revert to the City unless otherwise provided for by the City, in writing. Any equipment secured through fund-raising efforts to benefit the public access television station shall remain the property of the city's PEG Access Center. Ownership of the library of programs collected during the performance of this contract shall, upon termination of this contract, revert to the city.

- A. All changes to the facility and equipment array shall be approved by the City before being undertaken
- B. The City shall make at least two telephone lines available for CAT's business use. CAT shall be responsible for reimbursing the City, on a quarterly basis, for this expense at a rate of \$20 per line per month
- C. CAT shall be responsible for its own long distance telephone calls
- D. CAT shall be responsible for paying the costs of their listing in the telephone directory
- E. The City shall furnish and maintain the hardware for up to three computers for the office use of CAT. This is in addition to those computers that are part of the video systems and the public internet work station. CAT will be solely responsible for the software and operation of the three office computers.
- F. The City shall provide access to the world wide web for the CAT
- G. There shall be no charge to citizens of Fayetteville for the use of cable casting time on the public access channel, nor for the use of the facilities or equipment. However, CAT's fees and charges may apply for such services as, but not limited to, instructions on video production and internet use, video tapes, video tape duplication, annual producer's fee and contracts for video productions.

MAINTENANCE

- H. The City shall be responsible for the payment of the Access Center utilities, routine building and grounds maintenance and maintenance of the structure
- I. The CAT may use the City's current copier at the Access Center for a charge of \$.039 per copy. Additionally, the CAT may use the copier located at the City Administration Building for the standard charge as is allocated per copy to the City Departments and Divisions. If the City upgrades the copier located in the Access Center, CAT shall pay an adjusted charge per copy, up to, but not to

exceed the standard City rate charged to City Departments and Divisions as determined annually.

- J. Copy machine maintenance costs will be paid by the City.

VIDEO EQUIPMENT:

- K. Cat Staff and Producers will have direct input in the decisions regarding the acquisition, maintenance and repair of equipment used primarily by CAT Staff and Producers. The City will accommodate the equipment needs of the CAT Staff and Producers to the extent that considerations of budget, compatibility and integration into the system will allow.
- L. The City shall repair and maintain the video equipment except as otherwise noted. Cat shall make minor, routine repairs to equipment used for public access productions which shall be mutually agreed upon by the City and CAT.
- M. The City shall operate a system for equipment and facility repairs. All repair requests will be recorded and forwarded to the Cable Administrator, or his designee, who will assign the repairs to be done by an appropriate staff member or to other sources as defined in the PEG Center Standard Operational Procedure. The written system will be designed to keep all PEG Center Personnel informed of the status of repairs. A similar system will be used to conduct preventative maintenance in accordance to hours of usage of cablecast decks, field cameras and edit system decks.
- N. CAT shall make minor repairs to equipment used for public access productions such as repairing microphones, cables, cleaning recording heads, and camera lenses
- O. Certain equipment, to be designated by the City, shall not be available for public access checkout. The reserved equipment shall be used only for government productions, CAT's contract productions, and CAT's promotional programs. Use of the reserved equipment will be only by CAT Staff and City Staff certified by a procedure established by the City.
- P. Use of the PEG Center video equipment and facilities will be coordinated by the City using a reservation system readily available at all times. This in no way relieves the CAT of the responsibility of making sure that all of the City's equipment used for public access purposes is checked out and returned in good working order.
- Q. CAT will notify the City immediately of any problems with the equipment
- R. All video production equipment owned by the City and used for public, educational and/or government access productions shall be covered under the City's insurance policy.

SECTION 4. CONTRACT PERIOD. The contract period will be from January 1, 2006 until December 31, 2006. Either party may cancel this contract at any time with a thirty (30) day written notice.

SECTION 5. FUNDING. The City hereby agrees to pay CAT the monthly sum of \$7,750 for services performed under the terms of this contract. Each monthly payment will be remitted on or before the 15th day of each month, beginning January 15, 2006. The Contractor agrees to provide the City with a monthly financial report, based on a modified accrual or cash basis method, summarizing activity during the preceding 30 day period. Said report shall include income and balance sheet statements. Contractor shall have an independent certified public accountant complete an official review of its financial records annually. This report shall be submitted to the City by the last day of the third month after the end of Contractor's fiscal year.

SECTION 6. LEGAL AUTHORITY. CAT assures and guarantees that it possesses the legal authority to enter into this Agreement. Further, that the person or persons signing and executing this Agreement on behalf of CAT have been fully authorized by CAT to execute this Agreement. That such authority is evidenced pursuant to a proper, appropriate and official motion and resolution, which was passed and approved specifically to enter into this Agreement and shall legally bind CAT to all the terms, performances, and provisions here set forth. A copy of such resolution shall be provided upon execution of this Agreement. The City may exercise its right to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of CAT or the person signing the Agreement. The City shall not be obligated to pay CAT for any performance of the provisions of this Agreement after the City has suspended or terminated this Agreement as provided in this Section.

SECTION 7. PERSONNEL. CAT shall adequately staff the public access operation to meet the services and duties outlined in this agreement. Staff for public, educational, and government channels will be expected to work together in a cooperative manner with all groups using the facility. Personnel policies shall be established by CAT and shall be available for examination by the City.

Upon termination of an employee by the City Cable Administrator, and in the event that the CAT's manager wishes to hire the employee over the objections of the Cable Administrator, an appeal of the action may be brought by the Cable Administrator to the CAT's Board of Directors. Similarly, upon termination of an employee by the CAT, and in the event that the Cable Administrator wishes to hire the employee over the objections of the CAT's manager, an appeal of the action may be brought by the CAT's manager to the Telecommunications Board.

SECTION 8. EQUAL OPPORTUNITY. CAT shall comply with all applicable equal opportunity, affirmative action, and ADA laws or regulations, including those of the City of Fayetteville.

SECTION 9. INSURANCE. CAT shall obtain and keep in force during the term of this agreement a policy of public liability and property damage insurance. The coverage, at a minimum, shall be in the following amounts:

General Liability

a. General Aggregate	\$1,000,000
b. Products/Completed Oper. Aggr.	\$1,000,000
c. Each Occurrence	\$100,000
d. Fire Damage (any one fire)	\$50,000
e. Medical Expense (any one person)	\$5,000

Worker's Compensation for all employees as required by Arkansas Statute.

Bonding: CAT shall obtain a fidelity bond covering all persons handling funds received or disbursed and/or signing or co-signing checks to disburse funds under this agreement, within 10 days of the contract execution. The fidelity bond shall be in an amount equal to 10% of the city grant award or \$5,000, whichever is less. CAT shall furnish the city proof of an adequate fidelity bond prior to the first payment of funds under this agreement.

SECTION 10. POLITICAL/SECTARIAN ACTIVITY. CAT management shall not initiate or sponsor political or religious programming. The staff shall work on a content neutral basis and shall not determine programming content except for programs produced for the purpose of promoting the use of the channel. Staff produced programs, such as short-takes, long takes and contract productions shall be open to participation by all citizens on a first-come, first-served, non-discriminatory basis. Though, the facility can be used for legitimate first amendment purposes, no portion of the funds received by CAT shall be used to directly produce any programs nor participate in any CAT-sponsored activities that establish any religion or prohibit the free exercise thereof.

SECTION 11. PUBLICITY. In any news release, sign, brochure, or other medium disseminating information prepared or distributed by or for CAT, mention shall be made of the City of Fayetteville having made the project possible, i.e. "Community Access Television' is a project partially funded by the City of Fayetteville."

SECTION 12. HOLD HARMLESS. It is expressed understood and agreed by both parties that the City is contracting with CAT as an independent contractor and that as such, CAT shall save and hold the City, its officers, agents and employees harmless from all liability of any nature of any kind, including costs and expenses for, or on account of, any claims, audit exceptions, demands, suits or damages of any character whatsoever resulting from injuries or damages sustained by persons or property, resulting in whole or in part from the performance or omission of any employee, agent or representative of CAT. This Agreement shall not be construed in any manner or form as a waiver of that Tort Immunity as set out under Arkansas Law.

SECTION 13. CONFLICT OF INTEREST. The CAT covenants that neither it nor any member of its Board of Directors currently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CAT further covenants that

in the performance of this Agreement no person having such interest shall be employed or appointed as a member of its Board of Directors.

The CAT further covenants that no member of its Board of Directors or its staff or employees shall possess any interest in or use their position for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves, or others particularly, those with which they have family, business, or other ties.

No officer, member, or employee of the City and no member of its governing body who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement, shall participate in any decision relating to the Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he has a personal financial direct or indirect interest; or have any personal financial interest, direct or indirect, in this Agreement or the proceeds thereof.

CONTRACT ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties hereto, and any prior agreement, whether written or oral, shall have no force or effect. Any subsequent agreements will have no effect unless properly executed in writing and recorded as an addendum to this Agreement.

SEVERABILITY. If any section, subsection, sentence, clause, phrase or word of this agreement is held to be invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or word will be deemed as a separate, distinct and independent provision, and such holding will not effect the validity of the remaining provisions of this agreement.

COMMUNITY ACCESS TELEVISION

CITY OF FAYETTEVILLE,
ARKANSAS

By: _____

By: _____
Dan Coody, Mayor

Title: _____

ATTEST:

ATTEST:

By: _____

By: _____
Sondra Smith, City Clerk

Title: _____

**ADDENDUM A
CAT CONTRACT
CITY'S PEG CENTER RULES**

1. The use of alcohol, tobacco products and illegal drugs is strictly prohibited in the PEG Center.
2. Contractor's and City's employees shall not park in the spaces in front of the Access Center.
3. Food and drink shall not be taken into the production areas which includes all editing bays, the studio control and cable casting areas and the Multi-Media Editing and Internet Access room.
4. PEG Center users shall not leave items to be stored in the PEG Center without permission from the Public Access Manager or the Cable Administrator. In the event that there is a disagreement about what can be stored in the PEG Center, the city shall make the final decision.
5. PEG Center users shall not leave unattended items such as coats, hats, cups, props, dishes, papers, books, magazines, food, drinks and other items in inappropriate places. Each user shall leave the break room and other rooms in the PEG Center in a reasonable state of order and neatness.
6. All equipment use shall be entered into the appropriate reservation book before being used.
7. If a producer is 20 minutes late or more, without notification, for an equipment reservation, the equipment may be reserved by another producer.
8. Public Access Contractor and City shall each bear one-half of the costs of supplies used by everyone in the facility's break room.
9. The staffs for the public access and government channels will be working closely together at the PEG Center. Members of both staffs will be expected to work in a cooperative manner.
10. All persons shall behave in a respectful, courteous and orderly manner while in the PEG Center.



CITY OF FAYETTEVILLE

**113 W. Mountain St.
Fayetteville, AR 72701**

REQUEST FOR PROPOSAL

RFP # 05-34

Public Access Services

RFP #: 05-34

DATE ISSUED: November 11, 2005

DATE & TIME OF OPENING: December 5, 2005 at 4:00 PM

BUYER: Andrea Foren, Room 306 ~ (479) 575-8220

F.O.B. Fayetteville, AR

GENERAL INFORMATION AND SPECIFICATIONS:

The City of Fayetteville is accepting proposals from organizations qualified and experienced in

- 1) the management and operation of electronic media production and distribution equipment and facilities, and
- 2) the promotion and education of the public with respect to the City of Fayetteville's priorities for promoting community dialogue and communications via the public access television station. These objectives are set forth by the Telecommunications Board Ordinance #4219, Resolution #94-91 and Section XVII of the cable franchise agreement approved by Ordinance #3413. Additionally, all business management processes and records are subject to the Arkansas Freedom of Information Act. Public access video production and training services reside at the P.E.G. Access Center, 101 W. Rock Street, Fayetteville. The City of Fayetteville (now on referred to as "City") is responsible for managing this facility.

A pre-proposal conference for all interested parties will be held to answer questions.

Date: Nov. 18th, 2005
Location: Peg Television Conference Room
Time: 4:00 p.m.

All Proposers must respond to all points below in the Scope of Work, describing how each objective will be accomplished and measured. Failure to respond to any of the points may result in disqualification from the proposal selection process. The City of Fayetteville reserves the right to reject any or all proposals.

SCOPE OF WORK:

Contractor will be responsible for the following:

- Educate community members in the production of non-commercial television programs:
 - Create and provide training curriculum to emphasize video proficiency and production quality in public access programming
 - Certify a minimum of forty (40) new producers per year
 - Include public service requirement as part of the certification process that results in at least one cablecast quality program per trainee
 - Effectively maintain web site for promotion and education of public
 - Encourage the use of the newer digital video editing capabilities and stay abreast of emerging technologies

- Utilize new emerging methods of video distribution, including video blogging, webstreaming and DVD distribution
 - Create a monthly schedule of relevant workshops to publish on the public access television channel's bulletin board and its web site
 - Recognize and explain how Home Programs could be a major source of programming
- Provide equitable channel availability, services, production equipment and facilities to all segments of the community, including local producers using their own equipment at home and other places, in addition to the access center, on a first-come, first-served, content-neutral, and non-discriminatory basis.
 - Define decision-making process and criteria for program frequency and selection of fill-ins
 - Define public access utilization goals with minimum standards for non-repeat programming
 - Design program grids for the scheduling of public access programs and cablecast programs on the public access channel
 - Report number of original and rerun programs per month
- Make television production equipment and facilities accessible to Fayetteville residents.
 - Devise and monitor equipment check-in, check-out procedures and provide reports quantifying the amount of use
 - Create a process to ensure that all equipment is confirmed to be in working order upon check-in so that inventory is maintained
 - Demonstrate capability for making minor repairs on-site (for example, repairs to microphones, cables, cleaning recording heads, etc.)
 - Schedule and monitor editing facilities and studio
- Effectively administer the public access contract, resources, and funds. Any funds or equipment secured through fund-raising efforts shall remain the property of the city's P.E.G. Access Center.
 - Devise and maintain administrative policies
 - Provide annual budget for review by Telecommunications Board
 - Specify plan for generating revenue, identifying target goal for annual fund raising efforts
 - Define priorities for expenditures to be compatible with both current and emerging technology standards maintained by the city
- Define process for communication with, and coordination among, all affected city programs, city staff, and the Telecommunications Board on a quarterly basis.

- Provide a public access channel that effectively promotes itself by using the channel to solicit both home produced programs and workshop participants.
- One primary goal of the City of Fayetteville is to select an organization that will strive to be self-sufficient and self-maintained. Community outreach for programming is important and should be explained in proposals.
- Explain how your organization would provide technical support to the community for equipment and software needed to produce locally produced programs.
- Provide all users with easily accessible hours of operation:
 - Minimum operating hours of 40 (forty) hours per week is mandatory
 - We encourage all Proposers to plan and explain their process for recruiting volunteers that would extend the operating hours past 40 (forty) hours per week (including some weekend hours if possible), at no additional cost.

Initial contract period will be for one year, January 1, 2006 – December 31, 2006. However, this agreement may be renewed for five (5) consecutive one (1) year terms. Each such annual renewal term shall be subject to a favorable recommendation from the Telecommunications Board to the City Council, approval of renewal by the City Council, and budget approval by the City Council. In addition, the City of Fayetteville reserves the right to cancel this contract, at any time, with a thirty (30) day written notice.

One (1) signed original, six (6) copies of the proposal and one (1) properly labeled CD-ROM, preferably in PDF format are to be delivered to the following address in a sealed package with the outside clearly marked with the name of the company, address of the company, and the words "proposal for Public Access Service, RFP No. 05-34"

Peggy Vice
Purchasing Manager
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Proposals will be received at this address until 4:00 p.m., December 5th, 2005. All proposals should include:

1. Name, address, phone number, and contact person,
2. Governing officers and Board members,
3. Proposal for completing the work,
4. Cost of doing the work,

And any other information pertinent to the applicant's proposal as requested in this RFP.

Upon opening proposals, the Public Access Selection Committee will convene to evaluate the proposals on the basis of the criteria described in these specifications. At any point in the selection process, the applicant may be requested to submit information supplemental to the proposal. Applicants may be required to give an oral presentation about their proposal to the selection committee. Once a recommendation is reached by the selection committee, the selection will be presented to the Mayor and City Council for approval.

SELECTION PROCESS:

In evaluating the qualification of each organization, the review committee will review the following:

(1) Qualifications of the Organization in relation to specific project to be performed (15 Points):

Information reflecting the qualifications of the organization. Indicate specialized experience and technical competence of the organization in connection with the type of complexity of the service required. This should include a list of Board members and their years of experience in public access; additionally, contractor shall document board member selection process.

(2) Experience, competence, and capacity for performance (25 Points):

Information reflecting the names, titles, and qualifications (including experience and technical competence) of personnel assigned to this project.

(3) Proposed method of meeting goals (25 Points):

A proposed work plan or description of how the project will be conducted and evaluated as well as other facts concerning approach to providing public access services. Include with this number of staff assigned to this project and description of their jobs, methods of accountability, and reporting procedures to the City. An annual budget shall be included in the work plan.

(4) Past performance (30 Points):

Previous evaluations shall be considered a factor. If previous evaluations with this City are not available, the organizations past performance records with the City and others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, the number of years of providing public access TV programming, and any other information.

(5) Annual Budget – Price (5 Points):

The proposed annual budget shall be considered a factor in the evaluation. Proposed budgets shall include meaningful line items descriptions. Supplementary descriptions should be attached for those items where the meaning of a line item name is not self evident.

The competitive selection for public access services shall be conducted by a review committee that will include one City Council Member, a representative of the Mayor, a representative of the Chief Financial Officer, a representative of the Telecommunications Board, involved department head, city project manager and one community member recommended by the Telecommunications Board.

All communications regarding this RFP will be made through:

Peggy Vice
Purchasing Manager
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701
(479) 575-8289

All inquiries regarding information on the City's public access service requirements will be made through:

Marvin Hilton
Cable Administrator
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701
(479) 444-3436

Available budgets for the past several years have been:

- *2003 funding- \$69,000
- *2004 funding - \$69,000
- *2005 budgeted- \$93,000
- *2006 approved - \$93,000

*These numbers do not reflect CAT's total budget - they only reflect the funding provided to CAT by the City of Fayetteville.

RESOLUTION NO. 212-04

MICROFILMED

A RESOLUTION TO APPROVE A CONTRACT WITH
COMMUNITY ACCESS TELEVISION, INC. TO OPERATE
THE PUBLIC ACCESS CABLE CHANNEL THROUGHOUT
2005 FOR \$93,000.00

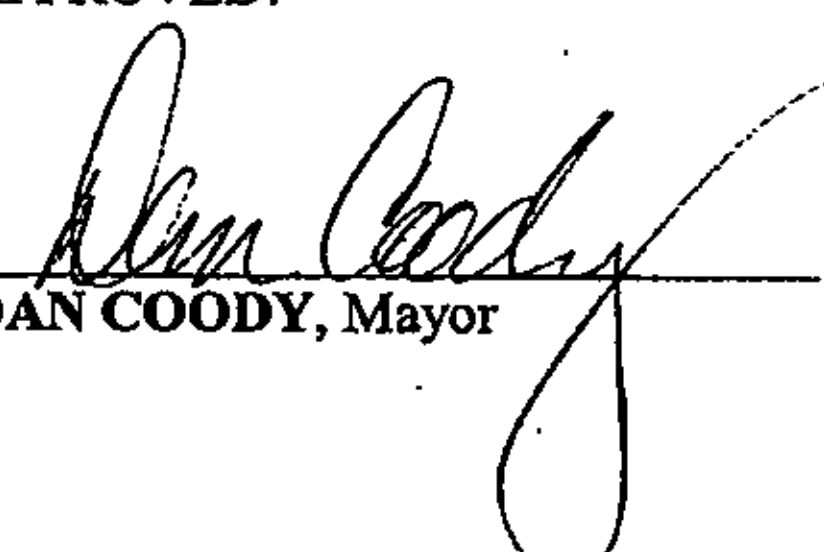
**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
approves the contract attached as Exhibit A with Community Access Television, Inc. to
operate the public access cable channel throughout 2005 for \$93,000.00.

PASSED and APPROVED this 21st day of December, 2004.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:



By:


SONDRA SMITH, City Clerk



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jan-06
City Council Meeting Date

RECEIVED

DEC 16 2005

CITY ATTORNEYS OFFICE

4:47 P.M.

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #05-82 to Downing Sales and Service in the amount of \$397,908 for the purchase of two Side load Solid Waste Collection trucks for use by Solid Waste Division.

\$397,908.00

Cost of this request

\$

795,000.00

Category/Project Budget

Solid Waste Equipment Replacement

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

-

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02082.1

Project Number

\$

795,000.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Date

Received in City Clerk's Office

ENTERED
12/16/05
40

Mayor

Date

Received in Mayor's Office

ENTERED
12/19/05
21

Comments:



A.4
Downing Sales & Service Bid 05-82
Page 2 of 6

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *DRB*

Date: December 15, 2005

Subject: Side Load Solid Waste Collection Truck Purchase

RECOMMENDATION: That City Council approve the purchase of two Side Load Solid Waste Collection trucks for use by Solid Waste Division.

BACKGROUND: Bid #05-82 was opened on November 14, 2005 for two Side Load Solid Waste Collection trucks for use by Solid Waste Division. Four bid responses were received. A detailed tabulation sheet is attached. The lowest bid from Downing Sales and Service for a Freightliner Condor chassis with Caterpillar engine does not meet all specifications.

The second lowest bid from Downing Sales and Service meets all chassis specifications and the body satisfactorily meets the intent and performance aspects of the specifications. A route demonstration of the New Way body was conducted on November 14th and 15th. Solid Waste and Fleet staff were satisfied with the performance and operation of the body. Satisfactory customer references have been received.

These two trucks are requested expansions to accommodate route growth and the need for an additional maintenance reserve as the remaining seven automated trucks reach the midpoint of their expected life.

I recommend acceptance of the lowest bid to meet specs from Downing Sales and Service in the amount of \$198,954 per unit - \$397,908 for two.

Funds are available for the replacement in 9700.1920.5802.00, Project #02082.1

The purchase of these two units was approved by the Equipment Committee on November 30, 2005, subject to budget approval.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #05-82 TO DOWNING SALES AND SERVICE FOR THE PURCHASE OF TWO (2) SIDE LOAD SOLID WASTE COLLECTION TRUCKS IN THE AMOUNT OF \$397,908.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #05-82 to Downing Sales and Service for the purchase of Two (2) Side Load Solid Waste Collection Trucks in the amount of \$397,908.00.

PASSED and APPROVED this 3rd day of January, 2005.

APPROVED

By:

DAN COODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk



FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.4
Downing Sales & Service Bid 05-82
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Award of Equipment Bid – Auto Side Load Waste Collection

Bid #05-82 was opened on November 14, 2005 for two Auto Side Load Solid Waste Collection Trucks for use by Solid Waste Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Downing Sales and Service for a Freightliner Condor chassis with Caterpillar engine does not meet specifications.

The second lowest bid from Downing Sales and Service meets all chassis specifications and the body satisfactorily meets the intent and performance aspects of the specifications. A route demonstration of the New Way body was conducted on November 14 and 15. Solid Waste and Fleet staff was satisfied with the performance and operation of the body. Satisfactory customer references have been received.

Contingent upon approval of the 2006 budget, I recommend acceptance of the lowest bid from Downing Sales and Service in the amount of \$198,954.00 per unit - \$397,908.00 for two.

I request approval of the Equipment Committee to place the purchase of no more than two auto side load solid waste collection trucks from Downing Sales and Service on the January 3, 2006 Council agenda. Quantity submitted will be subject to budget approval.

These two trucks are requested expansions in the 2006 budget to accommodate route growth and the need for an additional maintenance reserve as the remaining seven automated trucks reach the mid point of their expected life.

Cc:
Gary Dumas

APPROVED

11/30/05

2RB

BID: 05-82
DATE: 11/14/05
TIME: 2:00 PM
CITY OF FAYETTEVILLE



Bid 05-82, Automated Side Load Solid Waste Collection Truck

BIDDER		Manufacturer		Model		Price Each		Quantity		Total Price	
1	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	BID NOT SIGNED BID NOT SIGNED									
2	J&R Equipment - Item 1 J&R Equipment - Item 2	Auto Car Labrie	WXLL 64 Automizer Cool Hand	\$111,880.00 \$101,649.00	\$223,760.00 \$203,298.00	\$427,058.00					
3	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	Auto Car New Way	WXLL 64 Automated Side Load	\$111,880.00 \$87,074.00	\$223,760.00 \$174,148.00	\$399,408.00					
Item 9C added \$1500 to meet specs											
4	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	Freightliner New Way	Condor Automated Side Load	\$111,302.00 \$87,074.00	\$222,604.00 \$174,148.00	\$398,252.00					
Item 9C added \$1500 to meet specs											

CERTIFIED: Alia
P. VICE PURCH MGR

W. Foran
WITNESS

11/15/05
DATE

City Of Fayetteville

(Not a Purchase Order)

Downing Sales & Service Bid 05-82

Requester BARBARA OLSEN						Requestion No.		Date:	
Vendor # 3842						P.O Number		Expected Delivery Date:	
Vendor Name: DOWNING SALES AND SERVICE						Mail Yes: ☐ No: ☒		12/16/2005	
Address:						Fob Point: Yes: ☐ No: ☐		Taxable Yes: ☐ No: ☐	
City:						Zip Code		Ship to code:	
State:						Requester's Employee # 1940		Division Head Approval [Signature]	
Requester's Employee # 1940						Extension: 495		Quotes Attached Yes: ☐ No: ☐	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	AUTOCAR WXL 64 TRUCK WITH	2	EA	\$198,954.00	\$397,908.00	9700.1920.5802.00	02082.1		
2	NEW WAY AUTOMATED SIDE LOAD		EA		\$0.00				
3	BODY, TO BE UNITS 485 and 486		EA		\$0.00				
4	FIXED ASSET #700485, 700486		EA		\$0.00				
5	<i>for BID 05-82</i>		EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
Shipping/Handling					Lot				
Special Instructions:									
Approvals:									
Mayor:									
Finance & Internal Services Director:									
Dispatch Manager:									
Department Director:									
Budget Manager:									
Utilities Manager:									
IT Manager:									
Purchasing Manager:									
Subtotal:									
Tax: EXEMPT									
Total:									

Subtotal: 397,908.00
Tax: EXEMPT
Total: 397,908.00

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jan-06
City Council Meeting Date

A.5
Equipment Resource Mgmt
Page 1 of 8
RECEIVED
DEC 16 2005
CITY ATTORNEYS OFFICE
4:47 P.M.

David Bragg
Submitted By

Fleet Operations
Division

Operations
Department

Action Required:

A resolution awarding bid #05-72 for one large double drum vibratory asphalt roller for use by Transportation Division to Equipment Resource Management in the amount of \$128,490 and approval of the Budget Adjustment to move funds to the Fleet Expense account.

\$128,490.00 Cost of this request	\$ 134,800.00 Category/Project Budget	Construction Equipment - Replcmt Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 38,800.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02077.1 Project Number	\$ 96,000.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☒

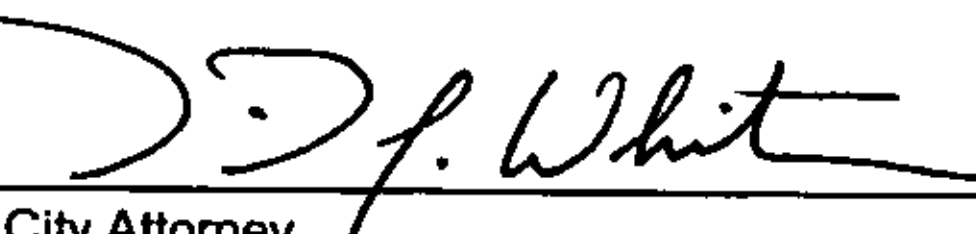

Department Director

12.16.05
Date

Previous Ordinance or Resolution # n/a

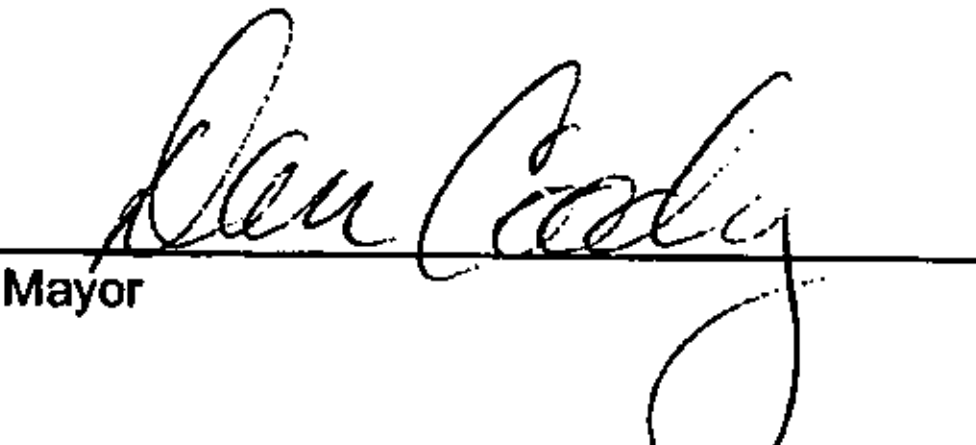
Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

12/19/05
Date

Received in City Clerk's Office



Mayor

12/19/05
Date

Received in Mayor's Office


Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.5
Equipment Resource Mgmt
Page 2 of 8

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *2005*
Date: December 1, 2005
Subject: Purchase of one Double Drum Vibratory Roller, Large

RECOMMENDATION: That City Council award Bid #05-72 for one large double drum vibratory asphalt roller for use by Transportation Division to Equipment Resource Management in the amount of \$128,490 and approval of the Budget Adjustment to move funds to the Fleet Expense Account.

BACKGROUND: Bid #05-72 was opened on November 15, 2005 for one Double drum vibratory asphalt roller – Large. Five bid responses were received. A detailed tabulation sheet is attached. The lowest bid from Clark Machinery Co. does not offer roller offset articulation, split drums and other deficiencies. The second lowest bid from Hugg & Hall Equipment does not offer roller offset articulation, split drums and other deficiencies. The third lowest bid from J. A. Riggs Tractor was incomplete – vendor verified the same deficiencies noted above by phone on 11/23/05. The fourth lowest bid from Equipment Resources Management meets all specifications. The fifth lowest bid from H & E Equipment also meets specifications with three minor exceptions.

I recommend acceptance of the lowest bid meeting specifications from Equipment Resource Management in the amount of \$128,490. This roller is a replacement for unit #66, a 1993 roller that is overdue for replacement and not up to current asphalt compaction technology.

Funds are available in Fleet Account 9700.1910.5802.00, Project #02077 – Construction Equipment for the replacement of unit #66. Funds for the upgrade technology in the amount of \$32,490 have been transferred from street funds.

The purchase of this unit was approved by the Equipment Committee on November 30, 2005.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) LARGE DOUBLE DRUM VIBRATORY ASPHALT ROLLER FROM EQUIPMENT RESOURCE MANAGEMENT IN THE AMOUNT OF \$128,490.00 FOR USE BY THE TRANSPORTATION DIVISION; AND APPROVING A BUDGET ADJUSTMENT.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) large double drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$128,490.00 for use by the Transportation Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$32,490.00.

PASSED and APPROVED this 3rd day of January, 2006.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A.5
Equipment Resource Mgmt
Page 4 of 8

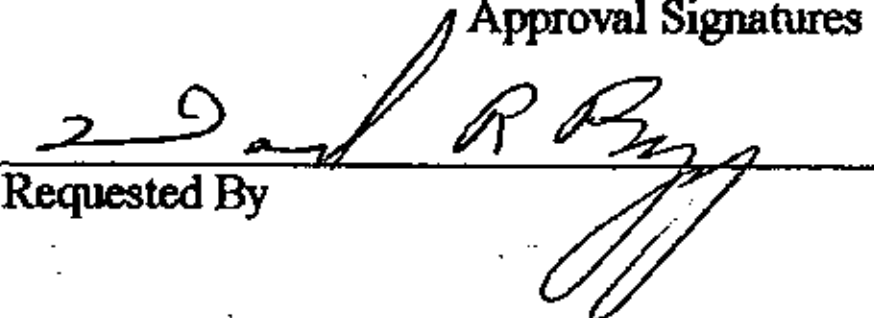
Budget Year 2006	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 12/15/2005	Adjustment Number
----------------------------	--	-------------------------------------	-------------------

Project or Item Requested: \$32,490 is requested in the Fleet Operations Capital Expenses Account, Project# 02077.	Project or Item Deleted: Move \$32,490 from Fleet Revenue Account to Fleet Expense account for the purchase of one large double drum vibratory roller.
--	--

Justification of this Increase: Replacement roller for #66 has been approved for purchase from this project.	Justification of this Decrease: Recognizing revenue of \$32,490 from Transportation for the purchase of one large double drum vibratory roller.
--	---

Increase Budget (Decrease Revenue)							
Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	32,490	02077	1

Decrease Budget (Increase Revenue)							
Account Name	Account Number				Amount	Project Number	
Transfer from Street	9700	0970	6602	10	32,490	02077	1

Approval Signatures  Requested By		12/16/05 Date	Budget Office Use Only					
			Type:	A	B	C	D	E
Budget Manager		Date	Date of Approval		Initial		Date	
Department Director		Date	Posted to General Ledger		Initial		Date	
Finance & Internal Services Director		Date	Posted to Project Accounting		Initial		Date	
Mayor		Date	Entered in Category Log		Initial		Date	

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 28, 2005

SUBJECT: Award of Equipment Bid – Asphalt Roller - Large

Bid #05-72 was opened on November 15, 2005 for one Double Drum Vibratory Asphalt Roller - Large for use by Transportation Division. Five bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Clark Machinery Co. does not offer roller offset articulation specified in par. 3.4,f; split drums specified in par. 3.5, a; as well as other deficiencies.

The second lowest bid from Hugg & Hall Equipment Co. does not offer roller offset articulation specified in par. 3.4,f; split drums specified in par. 3.5, a; as well as other deficiencies.

The third lowest bid from J. A. Riggs Tractor Co. was incomplete and unable to evaluate specifications. Vendor verified same deficiencies noted above by phone 11/23.

The fourth lowest bid from Equipment Resource Management meets all specifications.

The fifth bid from H & E Equipment Services also meets specifications with three minor exceptions.

I recommend acceptance of the lowest bid meeting specifications from Equipment Resource Management in the amount of \$128,490.00 and request approval to place this purchase on the agenda for the December 20, 2005 Council meeting.

This roller is a replacement for unit #66, a 1993 Ingersol Rand roller that is overdue for replacement and not up to current asphalt compaction technology.

Funds are available in the 2005 Fleet Replacement Special Project Account 02077 – Construction Equipment, for the replacement of unit #66. Funds for the upgrade technology in the amount of \$32,490 will be transferred from street funds.

APPROVED

Cc:
Gary Dumas

UNANIMOUS

11/30/05

2RB

BID: 05-72
DATE: 11/16/05
TIME: 2:00 PM
CITY OF FAYETTEVILLE



Bid 05-72, Double Drum Vibratory Asphalt Roller - Large

BIDDER: HUGG & HALL EQUIPMENT COMPANY, INC. MODEL: 800 SW 800 PRICE: \$88,850.00 TOTAL: \$88,850.00

1 Clark Machinery Co. SAKAI SW 800 \$88,850.00 \$88,850.00

2 Hugg & Hall Equipment INGERSOLL - RAND DD - 90 \$96,143.00 \$96,143.00

3 Riggs CATERPILLAR CB 534 D \$102,268.00 \$102,268.00

4 H&E Equipment Services DYNAPAC CC432V \$129,032.00 \$129,032.00

5 Equipment Resource Management HAMM HD 90 4HV \$128,490.00 \$128,490.00

CERTIFIED: P. Vice W. J. Jett 11-16-05
P: VICE PURCH MGR WITNESS DATE

City Of Fayetteville

(Not a Purchase Order)

Requisition No. _____ Date: **12/16/2005**
P.O Number _____ Expected Delivery Date: _____

Vendor # **12737** Vendor Name: **EQUIPMENT RESOURCE MGMT**

Address: _____ Fob Point: _____

City: _____ State: _____ Zip Code: _____ Ship to code: _____

Requester: **BARBARA OLSEN** Requester's Employee # **1940** Extension: **495**

Project/Subproject # _____ Inventory # _____ Fixed Asset # _____

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	HAMM HD 90 4HV DOUBLE DRUM	1	EA	\$128,490.00	\$128,490.00	9700.1920.5802.00	02077.1		
2	LARGE VIBRATORY ROLLER		EA		\$0.00				
3	TO BE UNIT 9085, FIXED ASSET		EA		\$0.00				
4	#709085 <i>per bid 05-72</i>		EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: **128,490.00**

Tax: **EXEMPT**

Total: **128,490.00**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jan-06
City Council Meeting Date

RECEIVED

DEC 16 2005

CITY ATTORNEY'S OFFICE

4:47 P.M.

A.6

Barloworld Freightliner of Springdale
Page 1 of 6

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #05-80 to Barloworld Freightliner of Springdale in the amount of \$95,941 for the purchase of one Tri Axle Dump Truck for use by Transportation Division.

\$95,941.00

Cost of this request

\$

205,000.00

Category/Project Budget

Med/Heavy Trucks Replacement

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

-

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02079.1

Project Number

\$

205,000.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached



Department Director

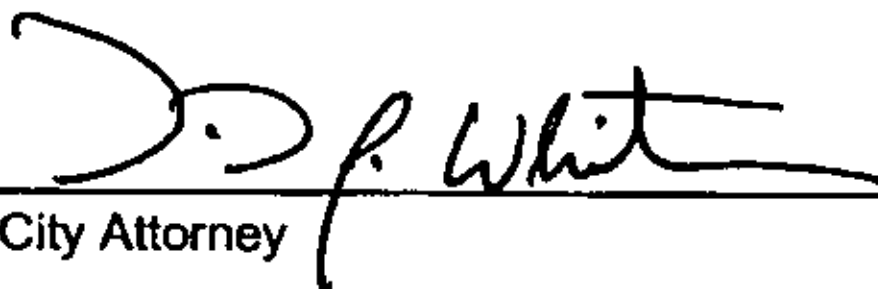
12.16.05

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a



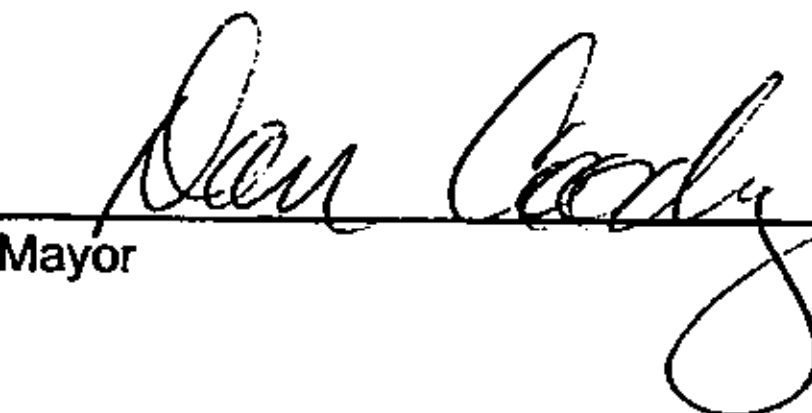
City Attorney

12/19/05

Date

Received in City Clerk's Office

ENTERED
12/16/05
20



Mayor

12/18/05

Date

Received in Mayor's Office

ENTERED
12/19/05
P.H.

Comments:



A.6
Barloworld Freightliner of Sprgdl
Page 2 of 6

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *DRB*

Date: December 15, 2005

Subject: Dump Truck Purchase

RECOMMENDATION: That City Council approve the purchase of one Tri Axle Dump Truck from Barloworld Freightliner of Springdale in the amount of \$95,941.

BACKGROUND: Bid #05-80 was opened on November 14, 2005 for a tri axle dump truck for use by Transportation Division. Five bid responses were received. A detailed tabulation sheet is attached. The lowest bid from Barloworld Freightliner of Springdale meets all specifications. I recommend acceptance of the lowest bid from Barloworld Freightliner of Springdale in the amount of \$95,941.

This truck is a replacement for 723, a 1996 Mack used by the Transportation Division. This unit is scheduled for replacement and should be replaced prior to the implementation of 2007 emission requirements.

Funds are available for the replacement in 9700.1920.5802.00, Project #02079.1.

The purchase of this unit was approved by the Equipment Committee on November 30, 2005, subject to budget approval.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #05-80 TO BARLOWORLD FREIGHTLINER OF SPRINGDALE FOR THE PURCHASE OF ONE (1) TRI-AXLE DUMP TRUCK IN THE AMOUNT OF \$95,941.00 FOR USE BY THE TRANSPORTATION DIVISION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #05-80 to Barloworld Freightliner of Springdale for the purchase of One (1) Tri-Axle Dump Truck in the amount of \$95,941.00 for use by the Transportation Division.

PASSED and APPROVED this 3rd day of January 2006.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Award of Equipment Bid – Tri Axle Dump Truck

Bid #05-80 was opened on November 14, 2005 for two Tri Axle Dump Trucks for use by Transportation and Water & Sewer Divisions. Five bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Barloworld Freightliner of Springdale meets all specifications.

Contingent upon approval of the 2006 budget, I recommend acceptance of the lowest bid from Barloworld Freightliner of Springdale in the amount of \$95,941.00 per unit - \$191,882.00 for two.

I request approval of the Equipment Committee to place the purchase of no more than two tri axle dump trucks from Barloworld Freightliner on the January 3, 2006 Council agenda. Quantity submitted will be subject to budget approval.

One of these trucks is a replacement for unit 723, a 1996 Mack used by the Transportation Division. This unit is scheduled for replacement and should be replaced prior to implementation of 2007 emission requirements.

The second truck is a 2006 budget expansion requested by Water & Sewer Division.

Cc:
Gary Dumas

APPROVED
11/30/05
2RB

The expansion was not
approved for 2006
budget - per
Budget office 12-16-5.

BID: 05-80
DATE: 11/14/05
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 05-80, Tri-Axle Dump Truck

Fayetteville
ARIZONA

BIDDER		Model		Price		Total	
1	MHC Kenworth / Volvo - Item 1 MHC Kenworth / Volvo - Item 2	Volvo OX	VHD 84B200 Stampede	\$90,960.00 \$15,035.00	\$181,920.00 \$30,070.00	\$211,990.00	
2	Diamond International Trucks						Bid Not Signed
3	Diamond International Trucks - Item 1 Diamond International Trucks - Item 2		International OX	7600 SBA Stampede	\$88,269.84 \$15,435.00	\$176,539.68 \$30,870.00	\$207,409.68
4	Barloworld Truck Center - Item 1 Barloworld Truck Center - Item 2		Freightliner OX	M2-112 Stampede	\$81,931.00 \$14,410.00	\$163,862.00 \$28,820.00	\$192,682.00
5	Barloworld Truck Center - Item 1 Barloworld Truck Center - Item 2		Freightliner Hilbitt	M2-112 16 ft. Dump	\$61,931.00 \$14,010.00	\$163,862.00 \$28,020.00	\$191,882.00

CERTIFIED: P. Vice
P. VICE PURCH MGR
WITNESS: A. Fran
DATE: 11/15/05

City Of Fayetteville
(Not a Purchase Order)Requisition No. _____ Date: 12/16/2005
P.O Number _____ Expected Delivery Date: _____

Vendor #

13048

Vendor Name: BARLOWORLD FREIGHTLINER

Address:

City:

State:

Fob Point:

Zip Code

Ship to code: 050

Requester

BARBARA OLSEN

Requester's Employee #

1940

Extension: 495

Quoted Attached

Item Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Project/Subproject #

Inventory #

Fixed Asset #

1 M2-112 TRUCKS WITH HILBILT

1

EA

\$95,941.00

\$95,941.00

9700.1920.5802.00

02079.1

2 16 FOOT DUMP BODIES.

EA

\$0.00

3 TO BE UNITS 750, FIXED

EA

\$0.00

4 ASSET # 700750

EA

\$0.00

5 *See Asset 05-80*

EA

\$0.00

6 EA

\$0.00

7 EA

\$0.00

8 EA

\$0.00

9 EA

\$0.00

10 EA

\$0.00

Shipping/Handling

Lot

\$0.00

Special Instructions:

Subtotal: 95,941.00

Tax: EXEMPT

Total: 95,941.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jan-06
City Council Meeting Date

A.7
Barloworld Freightliner of Sprgdl
Page 1 of 6
RECEIVED
DEC 16 2005
CITY ATTORNEYS OFFICE
4:47 PM

David Bragg
Submitted By

Fleet Operations
Division

Operations
Department

Action Required:

A resolution awarding Bid #05-73 to Barloworld Freightliner of Springdale in the amount of \$90,233 for the purchase of one Tandem Axle Dump Truck for use by Water and Sewer Division.

\$90,233.00 Cost of this request	\$ 205,000.00 Category/Project Budget	Med/Heavy Trucks Replacement Program Category / Project Name
9700.1920.5802.00 Account Number	\$ - Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02079.1 Project Number	\$ 205,000.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

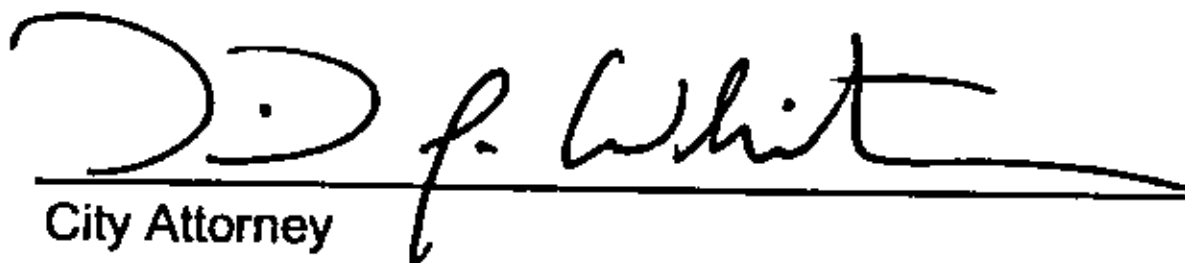

Department Director

12-16-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

12/19/05
Date

Received in City Clerk's Office

ENTERED
12/19/05
90


Mayor

12/19/05
Date

Received in Mayor's Office

ENTERED
12/19/05
12

Comments:



A.7
Barloworld Freightliner of Sprgdl
Page 2 of 6

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *DB*

Date: December 15, 2005

Subject: Dump Truck Purchase

RECOMMENDATION: That City Council approve the purchase of one Tandem Axle Dump Truck from Barloworld Freightliner of Springdale in the amount of \$90,233.

BACKGROUND: Bid #05-73 was awarded on November 15, 2005 for four Tandem Axle Dump Trucks for use by Transportation. An additional identical unit is budgeted in 2006 for Water and Sewer Division as a replacement for unit 717. This bid was awarded to Barloworld Freightliner in the amount of \$90,233 per unit. Barloworld will honor this bid for the additional unit and can build with a 2006 engine if the order is received in January.

Funds are available for the replacement in 9700.1920.5802.00, Project #02079.1.

The purchase of this unit was approved by the Equipment Committee on November 30, 2005, subject to budget approval.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #05-73 TO BARLOWORLD FREIGHTLINER OF SPRINGDALE FOR THE PURCHASE OF ONE (1) TANDEM AXLE DUMP TRUCK IN THE AMOUNT OF \$90,233.00 FOR USE BY THE WATER AND SEWER DIVISION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #05-73 to Barloworld Freightliner of Springdale for the purchase of One (1) Tandem Axle Dump Truck in the amount of \$90,233.00 for use by the Water and Sewer Division.

PASSED and APPROVED this 3rd day of January, 2006.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Dump Truck Purchase

Bid #05-73 was awarded on November 15, 2005 for four Tandem Axle Dump Trucks for use by Transportation Division. Two additional identical units are budgeted in 2006 for Water and Sewer Division. One is a replacement for unit 717 and the other is a requested expansion.

This bid was awarded to Barloworld Freightliner of Springdale in the amount of \$90,233.00 per unit. Barloworld will honor this bid for two additional units and can build with 2006 engines if the order is received in January.

I request approval of the Equipment Committee to place the purchase of no more than two tandem axle dump trucks from Barloworld Freightliner on the January 3, 2006 Council agenda. Quantity submitted will be subject to budget approval.

Unit 717 is a 1992 Mack single axle dump that is three years past scheduled replacement and is smaller than necessary for efficient operations.

Cc:
Gary Dumas

APPROVED

11/30/05

DRB

*2-16-5-The
expansion was not
approved - per
Budget office*

City Of Fayetteville

(Not a Purchase Order)

Vendor # 13048

Vendor Name: BARLOWORLD FREIGHTLINER

Requisition No.

Date:

12/16/2005

Expected Delivery Date:

Address:

Fob Point:

Mail Yes: __ No: __ XX

Taxable Yes: XX No: __

City:

State:

Zip Code

Ship to code: 050

Division Head Approval

Yes: __ No: __

Quotes Attached

Yes: __ No: __

Requester

Requester's Employee # 1940

Extension: 495

Project/Subproject #

Inventory #

Fixed Asset #

Requester BARBARA OLSEN

Item Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Project/Subproject #

Inventory #

Fixed Asset #

1 M2-112 TRUCK WITH OX

1

EA

\$90,233.00

\$90,233.00

9700.1920.5802.00

02079.1

2 STAMPEDE DUMP BODY

EA

\$0.00

3 TO BE UNIT 749 FIXED

EA

\$0.00

4 ASSET # 700749

EA

\$0.00

5 per bid #05-73

EA

\$0.00

6

EA

\$0.00

7

EA

\$0.00

8

EA

\$0.00

9

EA

\$0.00

10

EA

\$0.00

Shipping/Handling

Lot

\$0.00

Special Instructions:

Subtotal:

90,233.00

Tax: EXEMPT

Total:

90,233.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jan-06
City Council Meeting Date

RECEIVED
Downing Sales & Services Bid 05-81
Page 1 of 6

DEC 16 2005

CITY ATTORNEY'S OFFICE

4:47 P.M.

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #05-81 to Downing Sales and Service in the amount of \$368,888 for the purchase of two Front load solid Waste Collection trucks for use by Solid Waste Division.

\$368,888.00

Cost of this request

\$ 795,000.00

Category/Project Budget

Solid Waste Equipment Replacement

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ -

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02082.1

Project Number

\$ 795,000.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

Comments:



A.8
Downing Sales & Services Bid 05-81
Page 2 of 6

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *DB*

Date: December 15, 2005

Subject: Front Load Solid Waste Collection Truck Purchase

RECOMMENDATION: That City Council approve the purchase of two Front Load Solid Waste Collection trucks for use by Solid Waste Division.

BACKGROUND: Bid #05-81 was opened on November 14, 2005 for Front Load Solid Waste Collection trucks for use by Solid Waste Division. Six bid responses were received. A detailed tabulation sheet is attached. The lowest bid from Downing Sales and Service meets all specifications.

These two trucks are replacements for units #443 and 445, 1996 Mack trucks that are scheduled for replacement and should be replaced prior to implementation of 2007 emission requirements. These chassis and bodies have reached an age that they are no longer dependable for daily operation.

I recommend acceptance of the lowest bid from Downing Sales and Service in the amount of \$184,444 per unit - \$368,888 for two.

Funds are available for the replacement in 9700.1920.5802.00, Project #02082.1

The purchase of these two units was approved by the Equipment Committee on November 30, 2005, subject to budget approval.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #05-81 TO DOWNING SALES AND SERVICE FOR THE PURCHASE OF TWO (2) FRONT LOAD SOLID WASTE COLLECTION TRUCKS IN THE AMOUNT OF \$368,888.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #05-81 to Downing Sales and Service for the purchase of Two (2) Front Load Solid Waste Collection Trucks in the amount of \$368,888.00.

PASSED and APPROVED this 3rd day of January, 2006.

APPROVED

By: DAN COODY, Mayor

ATTEST

By: SONDRA SMITH, City Clerk

DRAFT



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A.8
Downing Sales & Services Bid 05-81
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman Don Marr
Bobby Ferrell Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 22, 2005

SUBJECT: Award of Equipment Bid – Front Load Waste Collection

Bid #05-81 was opened on November 14, 2005 for two Front Load Solid Waste Collection Trucks for use by Solid Waste Division. Six bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Downing Sales and Service meets all specifications.

Contingent upon approval of the 2006 budget, I recommend acceptance of the lowest bid from Downing Sales and Service in the amount of \$184,444.00 per unit - \$368,888.00 for two.

I request approval of the Equipment Committee to place the purchase of no more than front load solid waste collection trucks from Downing Sales and Service on the January 3, 2006 Council agenda. Quantity submitted will be subject to budget approval.

These two trucks are replacements for units 443 and 445, 1996 Macks that are scheduled for replacement and should be replaced prior to implementation of 2007 emission requirements. These chassis and bodies have reached an age that they are no longer dependable for daily operation.

Cc:
Gary Dumas

APPROVED

11/30/05

2RRB

BID: 06-81
DATE: 11/14/05
TIME: 2:00 PM
CITY OF FAYETTEVILLE



Bid 06-81, Front Load Solid Waste Collection Truck

BIDDER: MARYLANDER MODEL: PRICE: \$418,478.00 TOTAL: \$418,478.00

1	Downing Sales - Item 1 Downing Sales - Item 2	Bid Not Signed Bid Not Signed				\$0.00
2	J&R Equipment - Item 1 J&R Equipment - Item 2	Auto Car Labrie	WX 64 Optimizer	\$113,255.00 \$95,984.00	\$226,510.00 \$191,968.00	\$418,478.00
3	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	Auto Car New Way	WX 64 Marmoth	\$113,255.00 \$71,189.00	\$226,510.00 \$142,378.00	\$371,247.00
			Added \$2369 to meet specs			
4	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	Freightliner New Way	Condor Marmoth	\$115,878.00 \$71,189.00	\$231,756.00 \$142,378.00	\$376,493.00
			Added \$2369 to meet specs			
5	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	Auto Car Kann	WX 64 Route King	\$113,255.00 \$76,498.00	\$226,510.00 \$152,996.00	\$379,506.00
6	Downing Sales and Service - Item 1 Downing Sales and Service - Item 2	Freightliner Kann	Condor Route King	\$115,878.00 \$76,498.00	\$231,756.00 \$152,996.00	\$384,752.00

CERTIFIED: *P. Vice* P. VICE PURCH MGR
WITNESS: *J. Thomas*
DATE: 11/15/05

City Of Fayetteville

Requisition No. _____ Date: **12/16/2005**
P.O Number _____ Expected Delivery Date: _____

Vendor # **3842** Vendor Name: **DOWNING SALES AND SERVICE**

Address: _____ Fob Point: _____ Taxable Yes: ☐ No: ☐

City: _____ State: _____ Zip Code _____ Ship to code: **050** Division Head Approval: **2885** Quotes Attached Yes: ☐ No: ☐

Requester **BARBARA OLSEN** Requester's Employee # **1940** Extension: **495**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	AUTOCAR WX 64 TRUCK WITH	2	EA	\$184,444.00	\$368,888.00	9700.1920.5802.00	02082.1		
2	NEW WAY MAMMOTH BODY		EA		\$0.00				
3	TO BE UNITS 483 AND 484, FIXED		EA		\$0.00				
4	ASSET #700483 AND 700484		EA		\$0.00				
5	<i>per bid 05-81</i>		EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: **368,888.00**
Tax: **EXEMPT**
Total: **368,888.00**

Approvals: _____
Mayor: _____ Department Director: _____
Finance & Internal Services Director: _____ Budget Manager: _____
Dispatch Manager: _____ Utilities Manager: _____
Purchasing Manager: _____
IT Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

12/06//2005
City Council Meeting Date

Leif Olson
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 05-1657: Administrative Item (Mt. Sequoyah South Rezoning): Approval of an ordinance to rezone the property as shown on Exhibit A from RMF-24 to RSF-8, as petitioned by the property owners shown on Exhibit A. The applicant requests to rezone the property from RMF-24, Residential Multi Family 24 units per acre, to RSF-8, Residential Single Family 8 units per acre.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director 11-18-05
Date

Previous Ordinance or Resolution # n/a


City Attorney 11-18-05
Date

Original Contract Date: n/a

Original Contract Number: n/a


Finance and Internal Service Director 11-18-05
Date

Received in City Clerk's Office



Mayor 11/18/05
Date

Received in Mayor's Office


Comments:

Tabled to 1/3/05 mtg
Left on the Second Reading 12/6/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director

From: Leif Olson, Associate Planner

Date: November 15, 2005

Subject: Approval of an ordinance to rezone the property shown as Exhibit A on the attached map from RMF-24, Residential Multi-Family 24 units per acre, to RSF-8, Residential Single Family 8 units per acre.

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning the property shown as Exhibit A on the attached map from RMF-24, Residential Multi-Family 24 units per acre, to RSF-8, Residential Single Family 8 units per acre.

BACKGROUND

In April of 2005, Planning Staff met with the applicant to discuss the existing land use zoning of a neighborhood located on the south side of Mt Sequoyah. This area is roughly bounded by Huntsville Rd. to the south, Willow St. to the west, Rock St. to the north, and Lyton Ave. on the east. This neighborhood is comprised of primarily single family homes located on small lots platted prior to current zoning ordinances, many of which contain slopes greater than 15%. In 1970, this area of Fayetteville was zoned R-2, also known as RMF-24, multi-family residential. The applicant was concerned with the possibility of high density residential being developed in the existing neighborhood.

Planning Staff recommended that a new zoning designation be developed in order to reflect the existing conditions such as lot bulk and area, building height, and building setbacks. The RSF-8 zoning district was designed for the purpose of rezoning this neighborhood and bringing these lots into conformity.

The applicant, working with City Planning Staff, developed a map and petition for property owners interested in rezoning their property to RSF-8. The applicant spent a considerable amount of time canvassing the neighborhood and collecting signatures for the rezoning petition.

The Planning Commission approved both the RSF-8 zoning ordinance amendment and the Mt. Sequoyah South rezoning on July 25, 2005 and forwarded these items to the City Council.

The Ordinance Review Committee reviewed the RSF-8 zoning district on September 15, 2005 and voted unanimously to forward it to the City Council with an amendment to the maximum buildable area of the lot.

City Council adopted Ordinance No. 4783 on October 18, 2005 amending the Unified Development Code to create the RSF-8 zoning district.

DISCUSSION

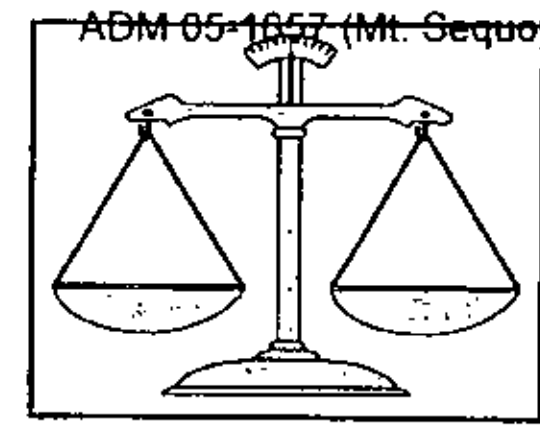
The Planning Commission considered this rezoning petition request on July 25, 2005, on which they voted 9-0-0 in favor of the recommended rezoning. Planning Staff has waited the required 30 days for the RSF-8 zoning district to become law before bringing this rezoning item forward for City Council consideration.

BUDGET IMPACT

None.

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

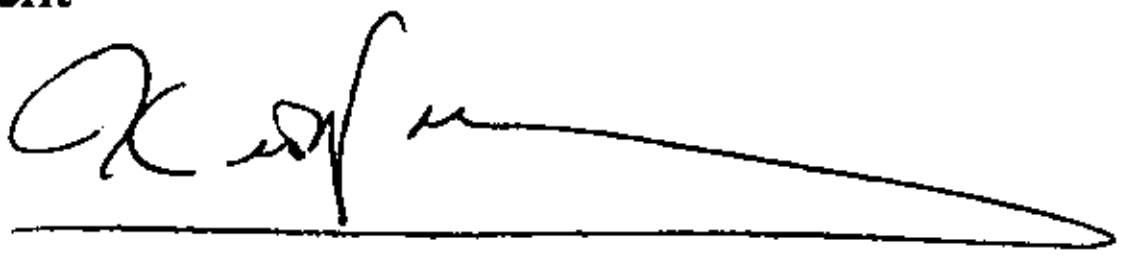
DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**
City Council

CC: **Lief Olson, Planning Department**

FROM: **Kit Williams, City Attorney** 

DATE: **November 18, 2005**

RE: **ADM05-1657, Consent Withdrawn**

The Planning Department and Planning Commission were informed that numerous property owners had revoked their initial consent to being down-zoned when a new zoning district, RSF-8 was created that was incompatible with existing large acreage lots. Specifically, all owners of land north of the unbuilt Lucien Street object to such rezoning. These would include all addresses on Rock Street.

The City Council can rezone property without the consent of the owners if it has legitimate reasons for such rezoning. However, the City Council should know that these property owners have withdrawn their approval and object to this rezoning. I believe all these property owners would consent to an even lesser density rezoning to RSF-4.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1657 AND SHOWN IN EXHIBIT
"A", GENERALLY LOCATED NORTH OF HUNTSVILLE RD., EAST
OF WILLOW AVE., SOUTH OF ROCK ST., AND WEST OF LYTON
AVE., FROM RMF-24 RESIDENTIAL MULTI-FAMILY 24 UNITS
PER ACRE TO RSF-8 RESIDENTIAL SINGLE FAMILY 8 UNITS
PER ACRE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From RMF-24, Residential Multi Family, 24 units per acre to RSF-8,
Residential Single Family, 8 units per acre, as shown on Exhibit "A"
Attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

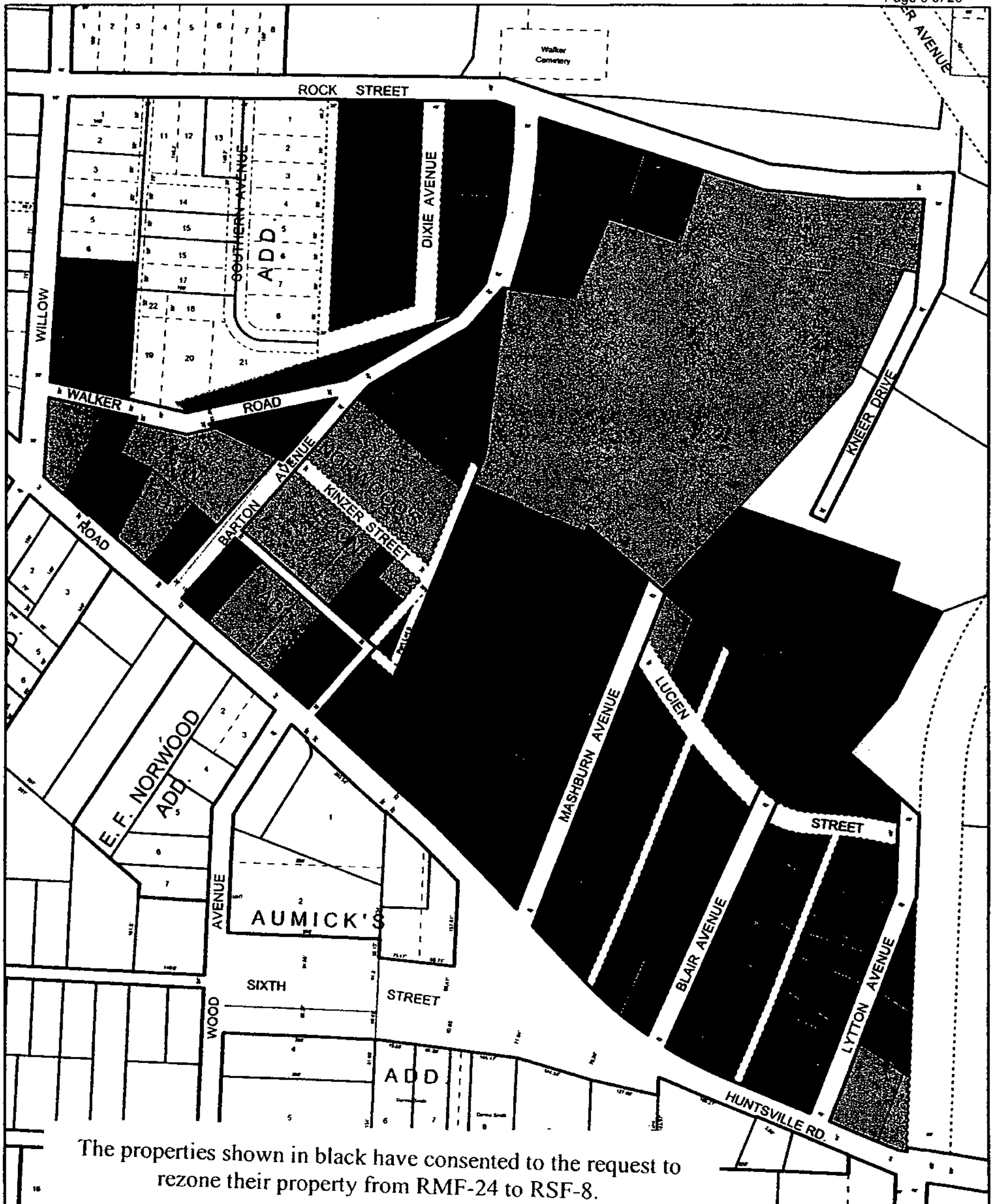
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

B. 1
ADM 05-1657 (Mt. Sequoyah South Rezoning)
Page 6 of 28



The properties shown in black have consented to the request to rezone their property from RMF-24 to RSF-8.

CONSENT OBJECT

ORDINANCE NO. 4783

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE, OF THE CODE OF FAYETTEVILLE, TO PROVIDE A NEW RESIDENTIAL ZONING DISTRICT.

WHEREAS, many of the historical residential neighborhoods in Fayetteville were platted prior to current zoning ordinances; and,

WHEREAS, these residential neighborhoods are therefore considered non-conforming in regards to bulk, area, and setback requirements; and,

WHEREAS, the City of Fayetteville desires to preserve these neighborhoods in their present residential conditions; and,

WHEREAS, the City of Fayetteville recognizes that future residential developments are likely to be built in a historical or New Urbanist pattern,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Chapter 161: Zoning Regulations, Unified Development Ordinance, Code of Fayetteville is hereby amended by inserting Exhibit "A" attached hereto and made a part hereof.

PASSED and APPROVED this 18th day of October, 2005.



ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



Exhibit "A"

161.26 District RSF-8, Residential Single-Family - 8 units/acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
-------------------------	--------

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.



PC Meeting of August 8, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Leif Olson, Long Range Planner
THRU: Jeremy Pate, Director of Current Planning
Tim Conklin, Planning and Development Management Director
DATE: Aug 1, 2005

RZN 05-1576: (MT. SEQUOYAH SOUTH, 524): Submitted by FRAN FREE for property owners in the designated area for various properties located BETWEEN HUNTSVILLE RD, E TO LYTTON AVE., N TO ROCK ST AND W TO WILLOW ST. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE. The request is to rezone the property to RSFH-8, RESIDENTIAL SINGLE FAMILY HISTORIC - 8 UNITS / ACRE.

Submitted on behalf of: FRAN FREE

Planner: LEIF OLSON

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required	☒ YES	☐ Denied	☒ Approved
Date: August 8, 2005					
CITY COUNCIL ACTION:		Required	☒ YES	☐ Denied	☒ Approved
Date: September 6, 2005					

Comments: _____

BACKGROUND:

Property description: The subject properties are located north of Huntsville Road, south of Rock St. and east of Willow Ave. This neighborhood was platted prior to the adoption of zoning codes for the City of Fayetteville. Typically, the lots are small, approximately 50' x 110', and are

K:\Reports\2005\PC Reports\08-08-05\RZN 05 - 1576 Mt. Sequoyah South.doc

developed with single family homes. This area of Mt. Sequoyah is very steep with slopes ranging from 10 to 25 percent. Additionally, the undeveloped and under-developed parcels are primarily covered in tree canopy. The applicant coordinated efforts to contact all property owners north of Huntsville Rd., south of Rock St., and east of Willow Ave. A large number of property owners agreed to the rezoning and signed the petition, however, some property owners objected or were unable to be contacted, so the proposed parcels to be rezoned are not all contiguous. Staff has not recommended rezoning any of the parcels that objected to this request.

Proposal: The neighborhood proposes this rezoning in order to support the existing single family homes in the area, and to ensure that any future development will occur in a similar pattern and land use. The applicants request a rezoning of the subject property from RMF-24, Residential Multi Family Residential 24 Units / Acre, to RSFH-8, Residential Single-Family Historic – 8 units per acre.

Recommendation: Staff recommends approval of the rezoning request based on findings stated herein. Any potential future development of these properties will be compatible with the residential developments surrounding the property.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Open Space / Cemetery / Single Family Residential	R-A, Residential Agricultural
South	Commercial uses along Huntsville Rd.	C-2, Thoroughfare Commercial
East	Open Space / Single Family Residential	R-A, Residential Agricultural RSF-4, Res. Single-family, 4 units/ acre
West	Single Family Residential	RMF-24, Res. Multi-family, 24 units/acre

INFRASTRUCTURE:

Streets: Currently the properties are accessed by a number of City Streets including; Huntsville Rd., Lyton Ave., Blair Ave., Mashburn Ave., Barton Ave., Walker Rd., Willow Ave., and Rock St.. No street improvements are required for this rezoning request.

Water: Public water is available to the properties located in this rezoning application.

Sewer: Sanitary sewer is available to these properties. Any future development would require that sewer infrastructure be installed to service such development.

Fire: These properties lie in both Fire Station 1 and 3 first due area. The response time for this area is 2 minutes with a distance from the nearest fire station at one mile. Due to the unknown number of acres we are unable to calculate the projected fire and ems calls/year for this rezoning.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan designates this area residential. Rezoning this property to RSFH-8 is consistent with the land use plan such that it will allow residential uses compatible with the surrounding properties.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning is consistent with land use planning objectives and policies and is compatible with zoning and use of adjacent properties. Surrounding properties are residential in nature.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. It will provide the potential for the development of comparable uses in close proximity to the existing single family residences.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Access to these properties is provided by numerous City streets and any future development will not appreciably increase the traffic danger and congestion on these streets.

Police – It is the opinion of the Fayetteville Police department that an appreciable increase and traffic danger and congestion will not be created by this rezoning request.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would decrease the potential for significant population density increases allowed in the RMF-24 zoning district.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

TITLE XV UNIFIED DEVELOPMENT CODE

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 18
----------------	---------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
•Development	10,000 sq. ft.
•Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured Home	3,000 sq. ft.
Apartment:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.

Cross reference(s)—Variances, Ch. 156.

- (F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

- (G) *Building area.* None.

(Ord. No. 4325, 7-3-01)

161.13 District Rmf-24, Residential Multi-Family – Twenty-Four Units Per Acre

- (A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 24
----------------	---------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
•Development	10,000 sq. ft.
•Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
•No bedroom	1,700 sq. ft.
•One bedroom	1,700 sq. ft.
•Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.

Cross reference(s)—Variance, Ch. 156.

- (F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.14 District Rmf-40, Residential Multi-Family – Forty Units Per Acre

- (A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	16 to 40
----------------	----------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

Cross reference(s)—Variance, Ch. 156.

- (F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.15 District R-O, Residential Office

- (A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

- (1) **Residential density.** Residential densities shall be determined on the basis of the following considerations:

- (a) The densities of surrounding development;
- (b) the densities allowed under the current zoning;
- (c) the urban development goals and other policies of the city's General Plan;
- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

- (2) **Lot area and yard requirements.** Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

- (3) **Building height.** There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

- (4) **Building area.** The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. 4717, 7-5-05; Ord. 4764, 09-20-05)

161.26 District RSF-8, Residential Single-Family – 8 Units Per Acre

- (A) **Purpose.** The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) Uses.

- (1) **Permitted uses.**

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

- (2) **Conditional uses.**

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) Density.

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) Bulk and area regulations.

- (1) **Lot width minimum.**

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

- (2) **Lot area minimum.**

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

- (3) **Land area per dwelling unit.**

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) Setback requirements.

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) Height regulations.

TITLE XV UNIFIED DEVELOPMENT CODE

Building height maximum	45 ft.
-------------------------	--------

- (G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05)

161.27-161.99 Reserved

June 2, 2005

City of Fayetteville,
Planning Department
Attention: Leif Olson
West Mountain Street
Fayetteville, AR 72701

Subject: Rezoning

Dear Leif,

I want to thank you again for facilitating this rezoning process. You've been at the helm to answer any questions and make it smooth sailing up to this point.

Enclosed, you'll find the petition signed by property owners within the rezoning area. The highlighted signatures indicate the originals; blank copies had to be mailed to those property owners residing out of town or state.

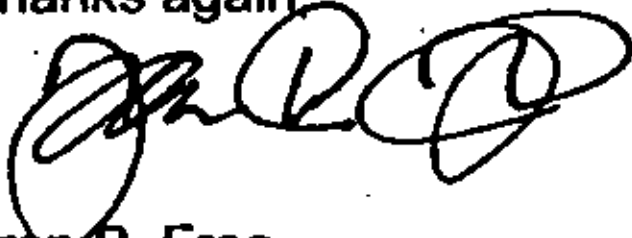
The petition was based on information from Washington County property records as of March, 2005. I've included copies of those records, organized in the order of the petition and a City plat map with shaded parcels of those that have been signed.

There were three of us that collected these signatures: Andy Lewis, Jonna Hussey, and myself. We divided the rezoning area into three groups (A, B, and C) according to parcel number and recurring owners, followed by our own familiarity of each property owner. I am the main contact, but please feel free to call any of us with specific questions.

I must say that we have thoroughly enjoyed meeting our neighbors through this process. My visits were anywhere from 30 minutes to 2½ hours per neighbor! This hillside has plenty of history and sizable tales. We feel rezoning will help ensure the sustainability of our current neighborhood and the perpetuity of local natural resources.

Please keep me informed of each step of the process and let me know when our rezoning request will be up for public comment. Several neighbors expressed interest in attending.

Thanks again



Fran B. Free

484 S. Mashburn Ave.
Fayetteville, AR 72701
479/443-6732 home
870/818-1987 cell
franbfree@usa.net

Fayetteville Fire Department Service Delivery Impact: Zoning Review

July 12, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
PZD 00-1598	Zion Gardens		13.55	4	2.4 miles	7 minutes	7.5 minutes	22	8	13
ANX 00-1603	Lane 5A	YES	5.28	5	4.3 miles	8 minutes	8.25 minutes	N/A	N/A	N/A
ANX 00-1603	Lane 5A	YES	5.28	3	3.3 miles	6 minutes	6.25 minutes	N/A	N/A	N/A
RZN 00-1604	Lane 5A		1.628	5	4.3 miles	8 minutes	8.25 minutes	1	0	1
RZN 00-1604	Lane 5A		1.628	3	3.3 miles	6 minutes	6.25 minutes	1	0	1
RZN 00-1576	Mt Sequoyah		u/k	1	1.0 miles	2 Minutes	4.0 minutes	0	0	*1
RZN 00-1576	Mt Sequoyah		u/k	3	1.0 miles	2 Minutes	3.25 Minutes	0	0	*1

*1 This property has sections in both Station 1 and Station 3's first due area. Due to the unknown number of acres we are unable to calculate the projected fire and ems calls/year for this rezoning.

3 This is the projected new station #3



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

B. 1
ADM 05-1657 (Mt. Sequoyah South Rezoning)
Page 20 of 28

July 18, 2005

Jeremy Pate
Director of Current Planning
City of Fayetteville
125 W. Mountain St.
Fayetteville, AR 72702

Dear Mr Pate:

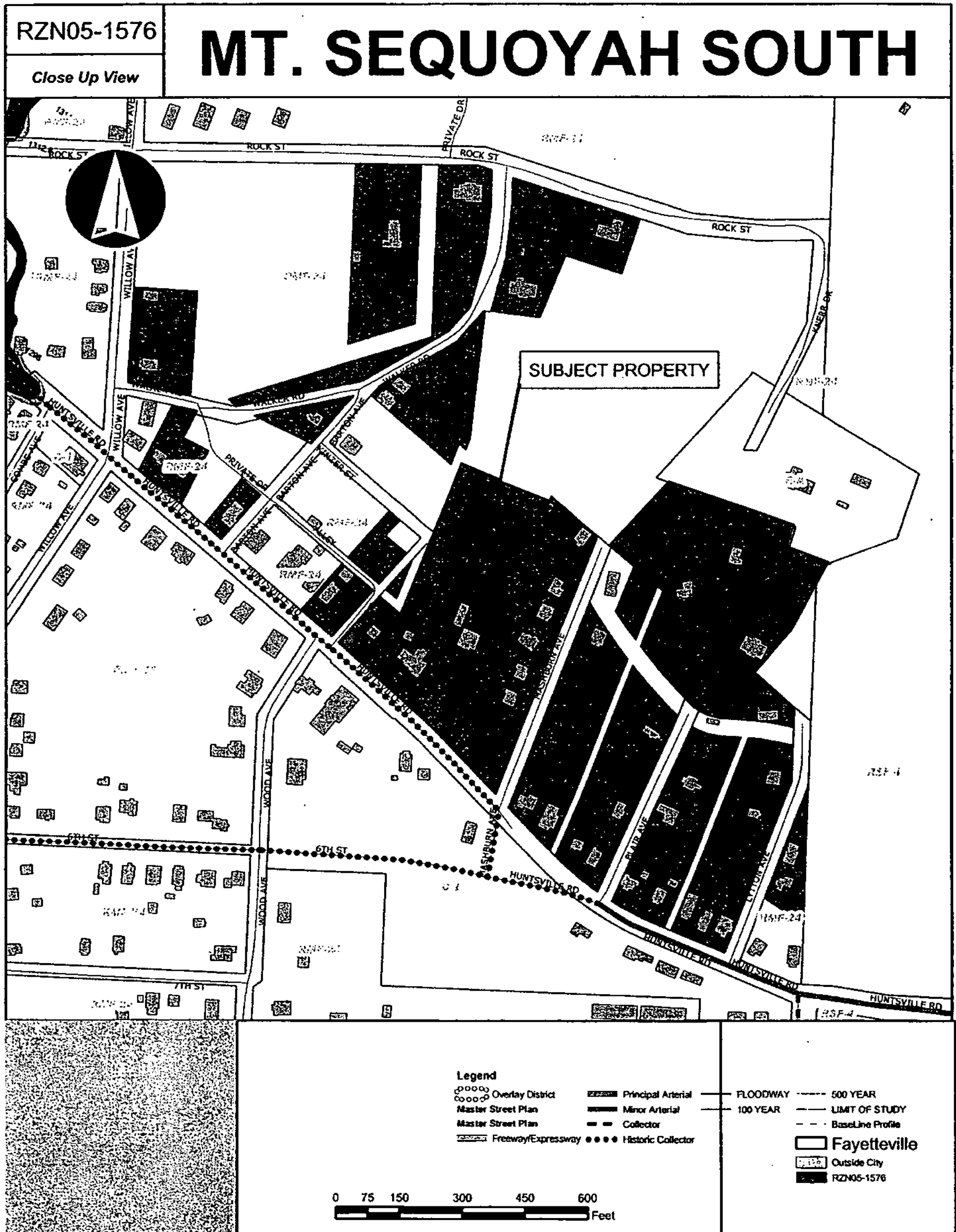
This document is in response to the request for a determination of whether the proposed **RZN 05-1576 (Mt. Sequoyah South, 524)** submitted by Fran Free for property owners in the designated area for various properties located between Huntsville Road, east to Lytton Avenue, north to Rock Street and west to Willow Street would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department the proposed rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Turberville".

Lieutenant Rob Turberville
Fayetteville Police Department



MT. SEQUOYAH SOUTH

Miles



Why Downzone This Neighborhood?

1. We are currently zoned *24 Multi-Family Units* per acre. That means that apartment complexes or high-density developments could be built here among our *Single Family Units*. **We do not believe this is feasible because of the steep hillside.**
 - a. We all see how the trees and utility poles lean downhill
 - b. We all have or know neighbors with sliding foundation problems

Imagine trying to build a large-scale development on this hillside. Although we are not proponents of urban sprawl, there are certain areas that should not be developed to this magnitude. This is one of those areas.

2. The city is currently working on a Hillside Development Ordinance to restrict building on steep hillsides, such as ours. If this ordinance passed, our hillside would be included in this. **This ordinance has been in the works for over 3 years and this latest attempt to pass it through the City Council is the 3rd try!** We hope that it does pass, but feel we cannot take the chance to wait and see.
 - a. The reason it has not passed yet is because there is too much opposition from developers who want to build large-scale *Multi-Family Units* on marginal lands, such as steep hillsides
 - b. The ordinance would restrict these developments on slopes steeper than 15%. **Our hillside has been found to contain slopes of steeper than 25%.**
 - c. This ordinance would be mandatory. Although we have gotten assistance from City Planning staff, **our petition is voluntary and is an effort of only our neighbors.**
3. The City Planning staff is dutifully working with us. They have looked at our lot sizes and established a new zoning district that specifically conforms to our existing lots and structures in this neighborhood. **This is not a common service that the City provides.** Besides this, they are not charging us anything to go through the rezoning process. This normally costs \$1500.00 per lot

What is the Process?

Once these signatures are collected, they will be turned in to the City Planning staff.

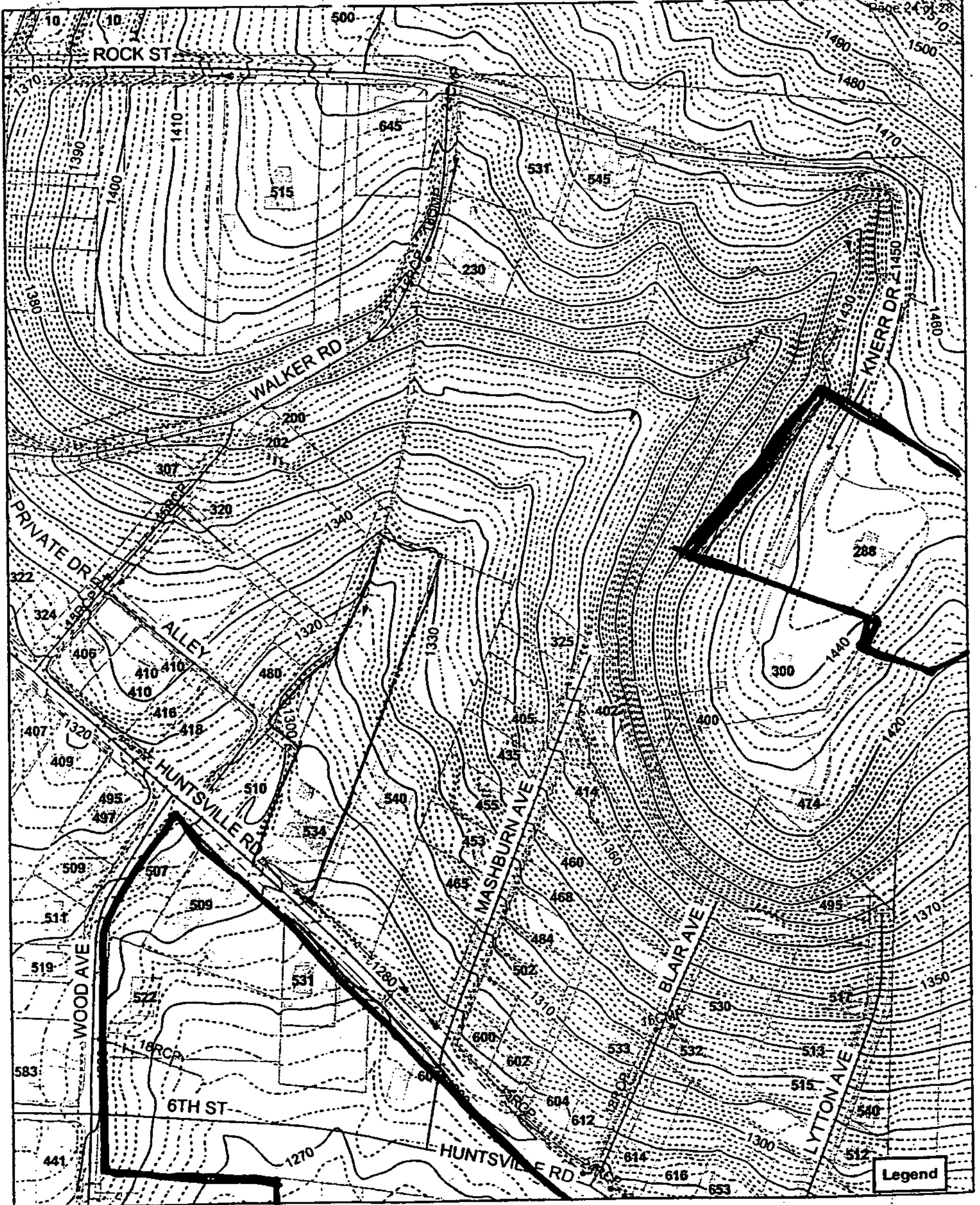
They will then present our proposal to the Planning Commission.

The Planning Commission will then vote on it and pass it to the City Council.

The City Council approves it.

And we celebrate.

We may need to attend a Planning Commission and City Council to present our side. Please provide your phone number if you wish to be contacted.



1 inch equals 200 feet

Fayetteville

FOR INFORMATION ONLY. NOT OFFICIAL FLOOD MAP FOR FLOOD INSURANCE PURPOSES.

Fayetteville's newspaper serving
Washington County since 1860

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THE TIMES

FRIDAY — May 6, 2005

Diamond Hogs winning this
weekend against Gators - Page A10



Dedicating dollars

Fayetteville spends more per student than nearby districts

Editor's note: This is the first in a three-part series of articles dealing with issues relating to Tuesday's millage election for the Fayetteville School District. The remaining stories will run Saturday and Monday.

BY BRETT BENNETT
Northwest Arkansas Times

Fayetteville had the highest per pupil spending aver-

age among Northwest Arkansas' "Big 4" districts at \$7,983 per pupil during the 2003-2004 school year, according to the latest figures available from the Arkansas Department of Education, by comparison, Rogers spent \$5,927 per pupil, Bentonville spent \$5,982. According to Superintendent Bobby New, having a

the community so far has been willing to pay a higher than average property tax rate because of its expectation of a quality education, New said.

District officials hope the trend continues Tuesday. They're asking voters to approve a 4.8-mill property tax increase, which will create a 49-mill tax levy, to fund increases in teachers' salaries and to replace and

the National Merit Scholarship winners and the large percent of high school students recognized as "advanced placement scholars" for taking honors classes.

The district has also been regularly recognized by Expansion Magazine as one of the nation's top school districts.

See PER STUDENT, page A

Man found not guilty for shooting intruder

BY TRISH HOLLENBECK
Northwest Arkansas Times

A man who shot and killed an intruder outside his home was found not guilty Thursday.

After a full day of testimony, jurors deliberated for 45 minutes in the Washington County Courthouse and Randy Grizzle not guilty of second-degree murder as well as lesser and included charges of negligent discharge and negligent



Neighbors band together to 'downzone' neighborhood

BY MARSHA L. MELNICHAK
Northwest Arkansas Times

As the city struggles with the issues created by rapid growth, one Fayetteville neighborhood is looking to take a step back in time.

Some residents in the Norwood and Fairland additions are moving toward rezoning or "downzoning" their neighborhood from multi-family zoning (24

units per acre) to single-family zoning (six units per acre), she said.

According to Free, some slopes in the area are a 25 percent grade. As a point of comparison, she notes that the Hillside Preservation ordinance, if approved, would protect slopes of 15 percent.

"We hope it goes through, but we don't feel we can take that chance."

See DOWNZONE, page A5

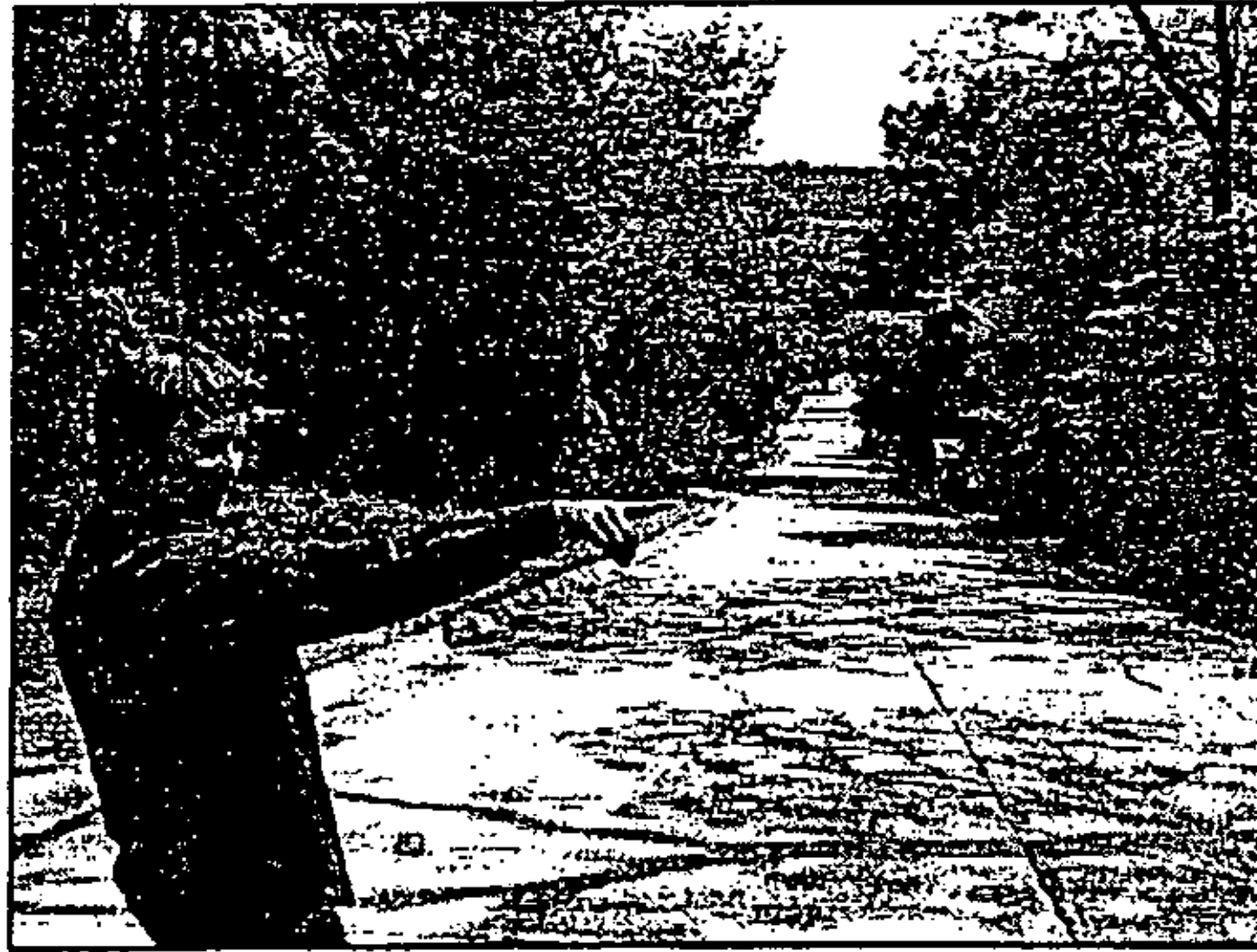
Downzone

Continued from A1

said Free, noting that the second hillside preservation task force is in its second year. "We want to go ahead and protect this area for single-family homes

"One difference between this and the Hillside ordinance is this is voluntary. Anybody that does not want to sign onto this doesn't have to. We're hoping it's not going to be a check-board. So far it's looking good."

Homes in the area already have drainage problems, Free explained, and any more impervious surfaces would only add to the



BROOKE McNEELY Northwest Arkansas Times

Local resident Fran Free points Thursday to an area on a steep hill on Blair Road that is zoned to hold a large apartment complex. Free is working with her neighbors in the Norwood and Fairland additions to rezone or "downzone" their neighborhood from multi-family zoning to single-family zoning because they don't believe their hillsides can handle 24 units an acre.

existing problems.

The current zoning, which allows for apartment complexes or high density development, was approved in the 1970s, apparently without a topological map, Free said.

The petition drive has been under way about three weeks for the approximately 100 parcels of land in the designated area. Many of the landowners being approached to sign did not realize the area was zoned for multi-family building, Free said.

About 75 percent of the landowners have signed and none of those approached so far has opposed the idea, according to Free.

"When I've been talking

to them about the possibility of apartments going in sometime in the future, their first concerns are traffic and parking, water issues, drainage issues, which is understandable. These are narrow streets, dead-end streets," Free said.

Streets in the area include Mashburn Avenue, Blair Avenue, Litton Avenue, Walker Road and Knerr Drive.

Once petitions are complete, they will be presented to city planners, who will use them as part of a staff report to the Fayetteville Planning Commission. From there the issue goes to the City Council.

The city has RSF-1 and RSF-4 classifications now, which are residential single

family, one and four units per acre respectively.

For this project, a new classification would have to be created.

"Our lots would not conform to that (RSF-1 and RSF-4) for certain setbacks, so the city is making a whole new zoning district for us," Free said. "It's going to be somewhere around RSF-6."

The lot size of about 50 feet wide or 5,000 square feet conforms to the homes and lot sizes already in the neighborhood.

Free concluded, "I'm not a proponent of urban sprawl, for sure; there are just some areas that should not have high density development. This is one of them."

Times Editorial

The downzone push

Petition a symbol
of democracy in action

As we speak, the Fayetteville community is receiving a fitting lesson regarding democracy in action. Just consider, for instance, a recent statement put forth by Fayetteville resident Fran Free:

"I'm not a proponent of urban sprawl, for sure; there are just some areas that should not have high density development. This is one of them."

Of course, we might amend that statement a bit, enough anyway to point out that we don't have a problem with the idea of development. In fact, we're patriotic to the extent that we're extremely proud of a local economy that makes the nation's capitalist structure proud on a daily basis. Growth is great, after all.

Only sometimes it isn't. Free, and other residents of Fayetteville's Norwood and Fairland additions, aren't thrilled with a type of expansion they feel is endangering the dignity, even the safety, of their neighborhood. In essence, residents are worried the wrong type of structures on the hillsides close to their homes will create a drainage problem throughout the area that might make life there unnecessarily difficult.

The idea of hillside preservation isn't new. There's been talk over the years of creating an official hillside ordinance to direct construction on similar sites to limit drainage complications, among other things. In fact, one Fayetteville task force hopes to have an ordinance regarding hillside preservation/construction ready for consideration by the town's planning commission and City Council sometime this summer.

This popular movement even received a shout-out of support last Thursday from Robert Redford during a speaking engagement at the University of Arkansas. Although his remarks were relatively brief, one important point the famous actor and noted conservationist wished to express to the Fayetteville community is the ongoing importance of community activism, of the power of neighbors to join together in the hopes of affecting real change to an ongoing problem.

And that's what we're seeing take shape in the wood and Fairland additions. Residents then worried on behalf of their community — but, instead of talking about it, or waiting for the city to act, actively discussing "downzoning" the neighborhood. In this case, it means changing the immediate area from multi-family zoning (24 units per acre) to single-family zoning (six units per acre).

This current action against expansive growth goes beyond the simple hope that one day things change. In this case, a petition drive circulating for much of the past month appears to be building steam. Regarding the roughly 100 parcels of land the petition seeks to protect, Free recently told the *Times* that 75 percent of neighbors have already signed it, an impressive representation of the support for "downzoning."

A petition that receives such strong support is an important victory in any democracy — and one hopefully the rest of the community will remember whenever important issues arise regarding their own lives and neighborhoods. After all, if opinion remains close to unanimous, it will be difficult to believe the City Council could credibly ignore the area's will for too long. As Redford reminded the crowd last week, popular support has a funny way of snowballing into policy in a representative democracy.

At the same time, it's important to understand the balance that must be met anytime a restriction on construction is being discussed. For instance, most people are fans of the environment, and no one is a fan of urban sprawl, but few of us wish to put the breaks on a local economy that's evolved into one of the most promising anywhere in the United States. And, despite all the talk that Northwest Arkansas is disappearing, drive 10 minutes off the beaten path in any direction, and guess what? You're right back in the middle of wilderness.

This conversation is taking us in the direction of moderation. Let's not mislead ourselves into believing the construction rate in Northwest Arkansas is on the verge of destroying the scenic life we all enjoy ... because it isn't. But let's also hope Fayetteville government is responsive to the wishes of any local neighborhood when an overwhelming majority of residents so clearly prefer to restrict growth — or boost it — especially if the conversation involves the environment and their own homes.

Either way, balance is key.

Who writes the editorials?

The editorial board determines the viewpoints expressed in our editorials. Its members are Publisher Jeff Jeffus, Executive Editor Greg Harton, Managing Editor Christie Swanson and Editorial Page Editor Scott Shackelford.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

Matt Casey Engineering Operations
Submitted By Division Department

Action Required:

Approval of a bid waiver and a cost share in the amount of \$798,963.44 with Reserve, LLC for improvements to Ruppel Road and Persimmon Street.

\$798,963.44	\$ 559,143.00	Street ROW / Intersection /
Cost of this request	Category/Project Budget	Cost Sharing
4470.9470.5809.00	\$ 337,632.06	Program Category / Project Name
	Funds Used to Date	Street Improvements
02116	\$ 221,510.94	Program / Project Category Name
Project Number	Remaining Balance	Sales Tax
		Fund Name

Budgeted Item ☒

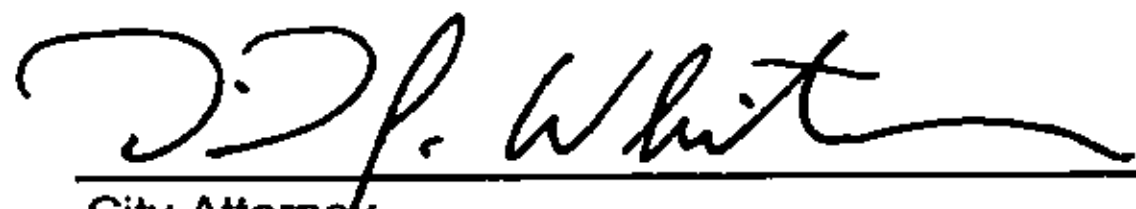
Budget Adjustment Attached ☒


Department Director 12-2-05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

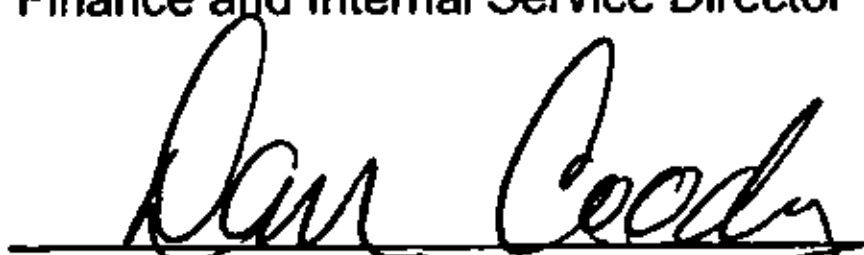
Original Contract Number: _____


City Attorney 12/5/05
Date

Received in City Clerk's Office
 12/2/05


Finance and Internal Service Director 12/5/05
Date

Received in Mayor's Office
 12/5/05


Mayor 12/5/05
Date

Comments:

Let on the First Reading 12/20/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations *GD*

From: Ron Petrie, City Engineer *RBP*

Date: December 1, 2005

Subject: Proposed Street Cost Share in the amount of \$798,963.44 with Reserve, LLC for the widening of Ruppel Road and Persimmon Street adjacent to the Mountain Ranch Development.

RECOMMENDATION

Staff recommends approval of a bid waiver and a cost share with Reserve, LLC for the widening of approximately 1200 LF of Ruppel Road to a four lane boulevard, approximately 1100 LF of Persimmon Street to a three lane collector and approximately 2100 LF of Persimmon Street to a two lane local street.

BACKGROUND

At the August 3, 2004 meeting of the City of Fayetteville City Council, the annexation of the property for the Mountain Ranch development was heard (ANX 04-1083 Marinoni). During this hearing, the council members discussed the need for a connection of Persimmon Street to Shiloh Drive. It was agreed at that time that this extension would be made with the proposed development. The City Council unanimously passed the requested annexation.

Since that time Planning Commission has approved the preliminary plat of the Mountain Ranch subdivision. The developer and City staff have worked together to plan the improvements necessary for Ruppel Road and Persimmon Street adjacent to this development. The improvements include upsizing the required two lane street section along Ruppel Road to a four lane boulevard section. The additional width will add capacity for the construction of the new school that is under construction adjacent to this portion of roadway. The improvements to Persimmon include constructing a three lane section the extent of the City property that is occupied by the Boys and Girls Club. From the City property east to the existing portion of Persimmon by Shiloh, a two lane local street section is proposed until development occurs on the north side of this roadway. As development occurs, the street can be widened to the full three lane section.

At the October 25, 2005 meeting of the City Council Street Committee, the street improvements and the cost share with the developer were discussed. The street committee agreed unanimously to forward the cost share to the full City Council.

DISCUSSION

Construction estimates have been provided to the City for these improvements by Crafton, Tull & Associates, the engineer of record, as follows:

RUPPLE ROAD COST SHARE

Developer's Share	\$568,610.00
City's Share	<u>\$307,876.50</u>
Total	\$896,486.50

PERSIMMON STREET COST SHARE

Developer's Share	\$512,867.56
City's Share	<u>\$491,086.94</u>
Total	\$1,028,954.50

BUDGET IMPACT

Project #02116 (Street ROW / Intersection / Cost Sharing) will be charged the \$798,963.44 necessary for this cost share. A budget adjustment will need to be approved to compensate for a shortfall of \$577,453. This shortfall will be temporarily funded from the Sales Tax Capital Improvement Fund balance until next year's CIP is approved. At that time, the 2006 Street ROW / Intersection / Cost Sharing capital project will be reduced by \$577,453.

The final costs to the City will be based upon actual costs as documented by Reserve, LLC subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH RESERVE, LLC IN AN AMOUNT NOT TO EXCEED \$798,963.44 FOR THE WIDENING OF RUPPLE ROAD AND PERSIMMON STREET ADJACENT TO THE MOUNTAIN RANCH DEVELOPMENT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$577,453.00.

WHEREAS, the City Council Street Committee voted to forward to the City Council the recommendation for a cost share agreement to widen approximately 1,200 linear feet of Rurple Road to a four-lane boulevard, approximately 1,100 linear feet of Persimmon Street to a three-lane collector, and approximately 2,100 linear feet of Persimmon Street to a two-lane local street;

WHEREAS, entering into a cost-share agreement with Reserve, LLC and utilizing their engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share agreement with Reserve, LLC in an amount not to exceed \$798,963.44 for the widening of approximately 1,200 linear feet of Rurple Road to a four-lane boulevard, approximately 1,100 linear feet of Persimmon Street to a three-lane collector, and approximately 2,100 linear feet of Persimmon Street to a two-lane local street.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$577,453.00.

PASSED AND APPROVED this 20th day of December, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

B. 2
Reserve LLC- Cost Share Agreement
Page 5 of 18

Budget Office Use Only					
Type:	A	B	C	<u>D</u>	E
Date of Approval				Initial	Date
Posted to General Ledger				Initial	Date
Posted to Project Accounting				Initial	Date
Entered in Category Log				Initial	Date

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this December 1, 2005, by and between the City of Fayetteville, Arkansas and the Fayetteville School District, Witnesseth:

WHEREAS, Fayetteville Public School District is constructing a new school at the southwest corner of the intersection of Persimmon Street and Ruppel Road.; and

WHEREAS, The school district will be extending an 8" main through the project site to provide water service and fire protection to the development; and

WHEREAS, it will benefit the City of Fayetteville to upgrade this 8" water main extension to a 12" main. This upgrade will continue the creation of a 12" water main grid in this area in accordance with the water distribution master plan.

NOW, THEREFORE, the City of Fayetteville and the Fayetteville Public School District agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the upsizing to a 12" water main along Ruppel Road.
 - B. Pay a maximum-not-to-exceed cost of \$52,195.00 for the afore mentioned water main construction as was provided by the Fayetteville Public School District and made a part of this agreement.
 - C. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by the Fayetteville Public School District. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - D. Make all efforts to provide payment to the Fayetteville Public School District within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Fayetteville Public School District agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien

waiver executed by the Contractor upon acceptance of the water main installation.

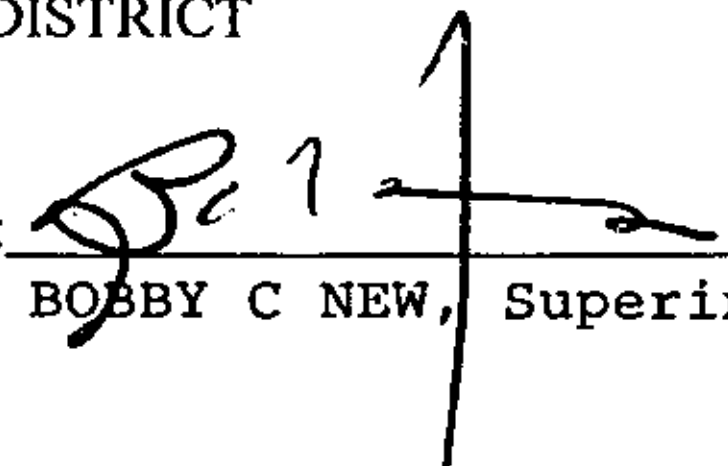
- C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between the Fayetteville Public School District and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$52,195.00 for the water main upgrade.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

FAYETTEVILLE PUBLIC SCHOOL
DISTRICT

By:  _____
BOBBY C NEW, Superintendent



Crafton, Tull & Associates, Inc.
P.O. Box 10189, Russellville, AR 72812-0189
(479) 968-1885 / Fax: (479) 968-2981
www.craftontull.com

MOUNTAIN RANCH SUBDIVISION STREET IMPROVEMENTS OPINION OF PROBABLE COST

December 1, 2005 (Includes NWX bid prices and Revised Asphalt Prices)

RUPPLE ROAD (As Designed)

ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT COST	RESERVE L.L.C UNITS	RESERVE L.L.C COST	CITY UNITS	CITY COSTS	TOTAL COST
1	Clearing and Grubbing	1	LS	\$26,000.00	0.77	20,000.00	0.23	6,000.00	\$26,000.00
2	Street Grading-Haul in 2' Select Fill	5650	CY	\$8.50	2,174.00	18,479.00	3,476.00	29,546.00	\$48,025.00
3	Unclassified Excavation	1	LS	\$105,000.00	0.47	49,200.00	0.53	55,800.00	\$105,000.00
4	Undercut	5000	CY	\$16.80	3,000.00	50,400.00	2,000.00	33,600.00	\$84,000.00
5	Street Section (2" Surf, 4" Binder & 6" Base)	6959	SY	\$25.00	3,260.00	81,500.00	3,699.00	92,475.00	\$173,975.00
6	2' Curb & Gutter	2450	LF	\$9.25	2,450.00	22,662.50	0.00	0.00	\$22,662.50
7	Median Curb	1950	LF	\$9.25	0.00	0.00	1,950.00	18,037.50	\$18,037.50
8	6' Wide Concrete Sidewalk	1670	SY	\$36.70	1,630.00	59,821.00	40.00	1,468.00	\$61,289.00
9	Curb Inlet	8	EA	\$2,680.00	8.00	21,440.00	0.00	0.00	\$21,440.00
10	18" RCP	65	LF	\$49.50	65.00	3,217.50	0.00	0.00	\$3,217.50
11	24" RCP	214	LF	\$60.00	214.00	12,840.00	0.00	0.00	\$12,840.00
12	30" RCP	136	LF	\$75.00	136.00	10,200.00	0.00	0.00	\$10,200.00
13	36" RCP	533	LF	\$100.00	533.00	53,300.00	0.00	0.00	\$53,300.00
14	Quadruple 10' X 5' RCP	110	LF	\$2,150.00	77.00	165,550.00	33.00	70,950.00	\$236,500.00
15	Engineering	1	LS	\$20,000.00	0.63	12,685.30	0.37	7,314.70	\$20,000.00
CONSTRUCTION TOTALS						\$568,610.00		\$307,876.50	\$896,486.50
									FAYETTEVILLE PUBLIC SCHOOL SHARE: \$284,305.00

PERSIMMON (As Designed)

ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT COST	RESERVE L.L.C UNITS	RESERVE L.L.C COST	CITY UNITS	CITY COSTS	TOTAL COST
1	Clearing and Grubbing	1	LS	\$39,000.00	0.49	\$19,064.22	0.51	\$19,935.78	\$39,000.00
2	Street Grading-(Haul in 2' Select Fill)	8800	CY	\$8.50	4,301.67	\$36,564.20	4,498.33	\$38,235.80	\$74,800.00
3	Unclassified Excavation	1	LS	\$185,000.00	0.49	\$90,432.84	0.51	\$94,567.16	\$185,000.00
4	Undercut (3')	8860	CY	\$16.80	4,331.00	\$72,760.80	4,529.00	\$76,087.20	\$148,848.00
5	Street Section (2" Surf., 3" Binder & 6" Base)	8860	SY	\$23.00	4,331.00	\$99,613.00	4,529.00	\$104,167.00	\$203,780.00
6	2' Curb & Gutter	4450	LF	\$9.25	3,250.00	\$30,062.50	1,200.00	\$11,100.00	\$41,162.50
7	6' Wide Concrete Sidewalk	2840	SY	\$36.70	2,150.00	\$78,905.00	690.00	\$25,323.00	\$104,228.00
8	Curb Inlet	2	EA	\$3,800.00	1.00	\$3,800.00	1.00	\$3,800.00	\$7,600.00
9	18" RCP	128	LF	\$49.50	70.00	\$3,465.00	58.00	\$2,871.00	\$6,336.00
10	Quadruple 10' X 5' RCP	84	LF	\$2,300.00	34.00	\$78,200.00	50.00	\$115,000.00	\$193,200.00
11	Engineering	1	LS	\$25,000.00	0.47	\$11,834.62	0.53	\$13,165.38	\$25,000.00
CONSTRUCTION TOTALS						\$512,867.56		\$491,086.94	\$1,028,954.50

The Ordinance was left on the Second Reading.

ANX 04-1083 (Marinoni): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Ruppel Road and Persimmon Street containing approximately 78.84 acres. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan asked Dawn Warrick what the situation was with Persimmon Street.

Dawn Warrick said that as properties develop along that master street plan corridor, the development will be required to install the improvements that are equal to the impact of their development. A standard improvement is a minimum of a half street improvement adjacent to the project, however if there is no additional development, there may need to be more than a half street improvement in order to provide adequate driving surface to connect the streets.

Alderman Jordan: Is there plans to go back to the bypass with Persimmon?

Dawn Warrick: Yes sir. The Master Street Plan calls for Persimmon to connect Double Springs Road at the far western extent of the City and Shiloh Drive which is the outer road along I-540.

Alderman Jordan: Is that going to be done with this development?

Dawn Warrick: The portion of this development that adjoins it will be developed as this property is built out. The portion of Persimmon that adjoins it will be constructed.

They continued to discuss the locations of the adjoining property.

Alderman Jordan said that he wanted to make sure that we get Persimmon Road built back to the bypass because that is important.

Dawn Warrick stated that that is the goal of the staff as well.

Alderman Thiel: We can require that they do the improvements on their side of the subdivision but you did mention both sides have to be improved and I would like to ask the City Attorney if that is going to be an issue. If this does progress on down to Shiloh and if the developments are on one side is the City going to have to basically cost share and do the other side to make these improvements.

Mr. Williams: It depends upon the rational nexus and the impact whether or not we can require a full road to be built by this developer even if they only owned one side of it. As long as it's within the rough proportionality of the impact of their development they are going to have much more of an impact and therefore it could potentially justify them building both sides of the street. If they only own one side they might still be required to do that constitutionally.

Alderman Thiel: This Parcel that we're looking at right now, we're pretty much being assured that we will get both sides of Persimmon built.

Dawn Warrick: I don't know that there is anything that I can assure you except that when we see a development the improvements that are required of that development will be roughly proportionate to the impact of that development on the adjacent streets.

Alderman Thiel: From looking at this there is not much frontage compared to the Greenwood/Sloan project.

Dawn Warrick: This is a narrow 80 acre strip however as I mentioned this developer does have control of approximately 400 acres that extends to the east of the subject property that is under consideration for annexation right now and they do propose to develop all of that over time and they understand that our priority is development of the property on the north end which would include development of their share of Persimmon Street or all of it if that is determined to be their share as well as the extension of Ruppel Road which would adjoin the property to the west.

Alderman Marr expressed his concerns about the width of the roads and he questioned why we were not cost sharing to make them wider now so that we can handle the traffic that will be there in the future. He asked what the process was because when these things come through he is hearing roads that are not necessarily addressing that issue.

Mr. Williams: There will be further discussions after this meeting before this comes up for a final vote concerning that kind of development and I think you are absolutely correct that this is the best time to do this kind of planning and construction so you don't interrupt traffic once they are using the road. I think there is going to be some work in the next couple of weeks that hopefully will answer some of the issues and questions that you have presented here.

Bob Estes, representing the applicants: With regard to the questions concerning Ruppel and Persimmon currently the site only has access to Ruppel Road at the northwest corner of the property. At the time of development Ruppel Road and Persimmon will be constructed by the developer and will be finalized before any building permits are requested. Commissioner Marr referred to some material that you have provided previously, this material shows three points of ingress and egress to the property that is before you for your consideration. Two of those points are on Persimmon and one is on Ruppel. If there is a request for any building permits that Persimmon and Ruppel will be improved and they will be improved to the Master Street Plan standards.

Alderman Jordan: So the bottom line here is that Persimmon is going to go all the way back to the bypass?

Bob Estes: That is correct.

Alderman Lucas: When?

Bob Estes: It will be built and finaled to the City before there is a request for a Building Permit so before you see any roof tops you will see Persimmon and Ruppel from the intersection of Ruppel and Persimmon East.

Alderman Jordan: I can work with that.

Alderman Lucas: When you say the road is going to be completed to the bypass, is it going to be done next to this 80 acres and then whatever you bring next or are you going to put Persimmon on through when you first start building it?

Bob Estes: Your applicants own the property from the bypass to Ruppel and it is bordered on the north by Persimmon. Persimmon will be improved and will be finaled to the City before there is a request for a Building Permit.

Alderman Marr asked staff what width a master street plan collector standard is.

Tim Conklin said 36 feet back curb to back curb.

Alderman Marr asked what an arterial is?

Tim Conklin: Minor arterial is going to be a 4 lane street; 48 feet wide principal arterial has a boulevard median.

Mayor Coody: 36 Feet is essentially number of three lanes; is that right?

Tim Conklin: I was not able to attend the Street Committee last week but I do believe on the agenda we did have on there turn lanes at major intersections is that correct, where we talked about bringing forward a cost share to work with the developments as they come through and put left turn lanes at the major intersections. That would be Ruppel Road and Broyles.

Bob Estes: Your Planning Commission will see an R-PZD on this property and that would be an appropriate time to discuss and consider some of the issues that we are talking about this evening.

Alderman Jordan said all I want is the road built to the bypass before we ever build any houses and you said you were going to do that so I don't have any problems.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4598 as Recorded in the Office of the City Clerk.

RZN 04-1084 (Marinoni): An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Ruppel Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre. *This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting.*

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Thiel: Whenever Mr. Estes was up here he mentioned this coming through as a PZD, you meant the other parcel because the rezoning is being considered here so this would not come through as a PZD.

Bob Estes: It will come through as an R-PZD. What is happening here and the reason for this rezoning request as follows is that annexations are automatically zoned R-A. The applicant is requesting RSF-4 rezoning. The reason that I do that and the reason I bring that to you in this manner is because the 2002 Annexation Policy Guideline for annexations requires that you consider density and you consider land use and land planning. The only way that you can consider that issue is that you consider the issue of rezoning because that is density, land use, and land planning. Your applicant is asking that you give this a rezoning classification of RSF-4. You will then see an R-PZD for this property.

He confirmed that the City Council will see this in the future. He also stated that it is more probable than not that the density will be less than RSF-4.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4599 as Recorded in the Office of the City Clerk.

Alderman Ferrell said he understands the concerns of the Committee, but this has been through the Board of Adjustment, a neighborhood meeting and the Planning Commission already. He asked Mr. Sharp how time-sensitive this project is.

Rob Sharp said they have the drawings done and have a tenant. They would like to apply for a building permit next week. His concern is that College Avenue is such a hot-button item, this issue could still be alive six months from now and by then the opportunity for this project could be lost. Waiting a couple of weeks wouldn't be a problem but six to eight weeks would.

Ron Petrie asked Mr. Sharp if there is a reason why the request is for 30 feet of right-of-way as opposed to 35 feet.

Rob Sharp said an amendment to that affect would be fine with his client. He would rather have 35 feet now than 30 feet six weeks from now if that is the issue. He mentioned that, if there is no objection from the Committee, they might be able to pursue the building permit with the canopy left off, with the understanding that they can come back once the design for College Avenue is firmed up since the building permit process also takes time.

Alderman Ferrell made a motion that the issue be sent to the full Council for discussion without recommendation from the Street Committee. Alderman Marr seconded the motion and it passed unanimously.

✱ **4. Discussion of a proposed cost share with the Fayetteville School Systems and Reserve, LLC (Terminella & Associates) to widen Ruppel Road to a four lane boulevard and to widen Persimmon Street to a Collector Street.**

Ron Petrie said this is a proposed street cost share with both Terminella (Reserve LLC) and the Fayetteville School system for two different roads. He discussed the Ruppel Road portion of the proposal, identifying which portion of the road would be paid for by each of the three participants (Reserve LLC, Fayetteville Schools and the City). The City of Fayetteville's portion would be a little over \$277,000. He then discussed the cost share division for the Persimmon Street portion of the proposal. The City's portion of the cost for this project would be \$534,375. The total for both portions (Ruppel and Persimmon) is \$812,220 for the City's portion. The school's portion would be \$308,915 and Reserve, LLC's portion would be \$805,000.

Gary Dumas commented that these costs are estimates. If the Street Committee approves this item, we will need to look even more closely at how the costs are allocated. The information presented at this time includes unit quantities and costs figured in bulk. As we look at more detail, some of the costs may be adjusted downward.

Alderman Marr said when this development was before the Council, he understood the developer was going to build the collector road.

Tom Terminella of Terminella & Associates said that at the Aug. 4, 2004 Council meeting Mr. Estes indicated that they would "construct" the road once it was understood what improvements needed to go in. In most cities, they construct roads that adjoin the boundaries of their project and cost share with the municipalities. In no part of the discussion was it indicated that they would provide all the right-of-way, engineer, construct and pay for the entire improvement as

shown on the Master Street Plan. At a meeting a few weeks ago, his group, Alderman Jordan and staff met to listen to the tape of the meeting to make sure what was said at that meeting since people seemed to be operating on different assumptions. He said that his company will construct the improvement and would respectfully ask for the City to cost share as is a common practice in every municipality in which they work.

Alderman Jordan said he does have the tape of the meeting where this was discussed if any of the Committee members would like to view it.

Ron Petrie said there are two separate issues. One is what was perceived to be promised at the meeting and the second is the staff recommendation. The staff recommendation is not based on the perceived promise, but is based on a purely rational nexus approach of who should pay for what. In response to a question from **Alderman Ferrell** he said the money for the City's portion of the cost share would come from for the City's street cost-share fund for next year if that fund is approved in the CIP budget.

Alderman Lucas said it was her understanding that the road would be built by Mr. Terminella. However, we have to have the road because of the school and the Boys & Girls Club. She has learned something from this situation and will be more careful of choices of words in the future.

Alderman Marr said he doesn't think we can have a school there and not build the road as specified. But regardless of semantics, he feels like it was presented one way and we are ending up with something different.

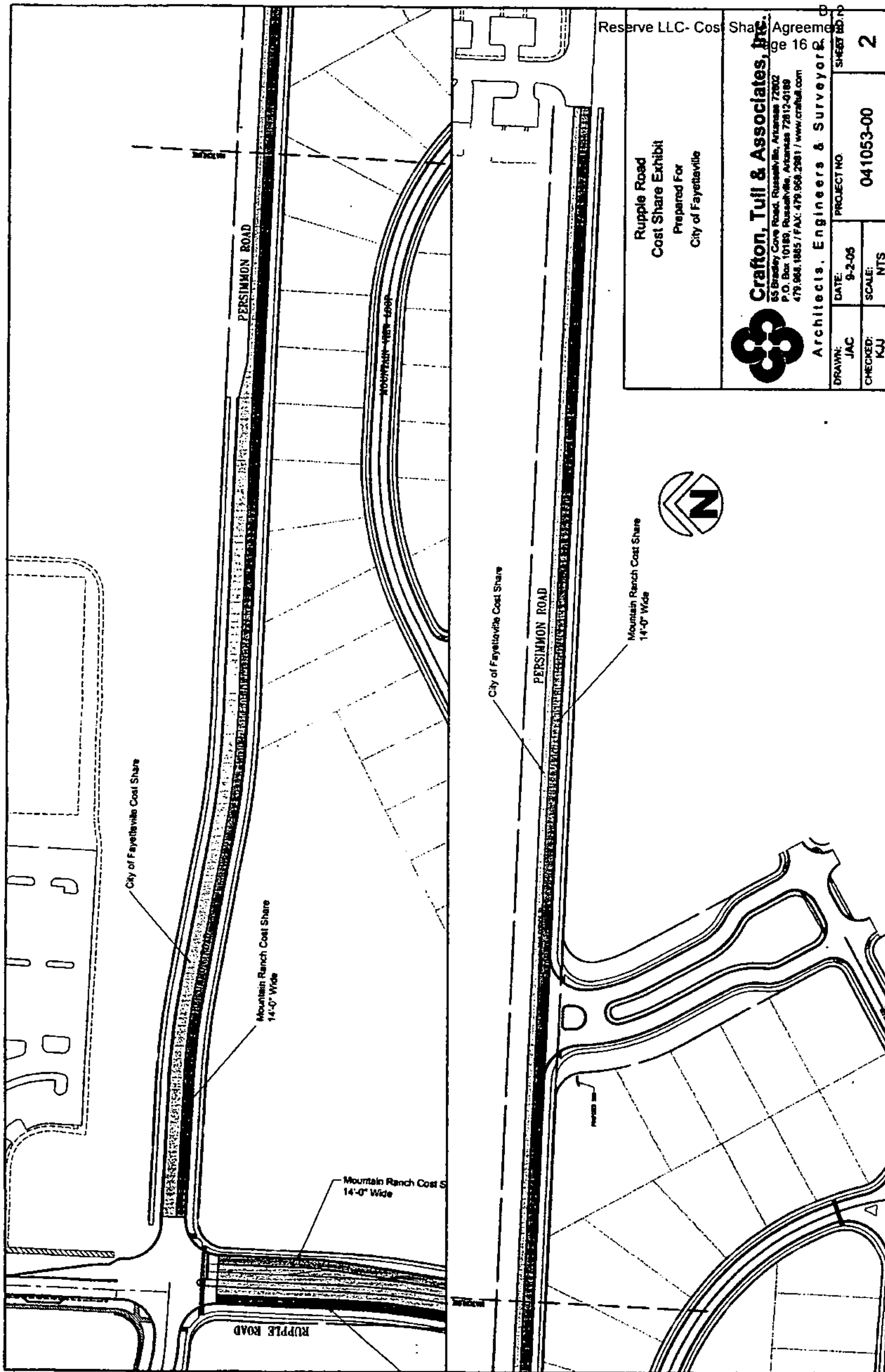
Tom Terminella said he is constructing and cost sharing a half a dozen improvements with seven different cities right now. He made certain assumptions based on his experience in this area. He said he would have clarified immediately if anyone had said anything about paying for and constructing the improvement. He doesn't want words put in his mouth or it to be thought that he said one thing and meant another. All the words were spoken carefully that night but nobody nailed it down. He is now suffering the consequences of that. He does not want his integrity or character to be questioned. He is sorry for any misconceptions, but he always assumed it would be a cost share. He hopes that it will be spoken more clearly in the future.

Tim Conklin, in response to a question from Alderman Ferrell said it was his assumption from the meeting that the developer was paying for the street. With regard to the size of the development, length of street and the fact that it is a collector street, City policy has been to cost share the center turn lane. So this does follow our policy.

— **Alderman Ferrell moved to accept staff's recommendation to participate in a cost share and move the item forward to Council. Alderman Reynolds seconded the motion. The motion passed unanimously.**

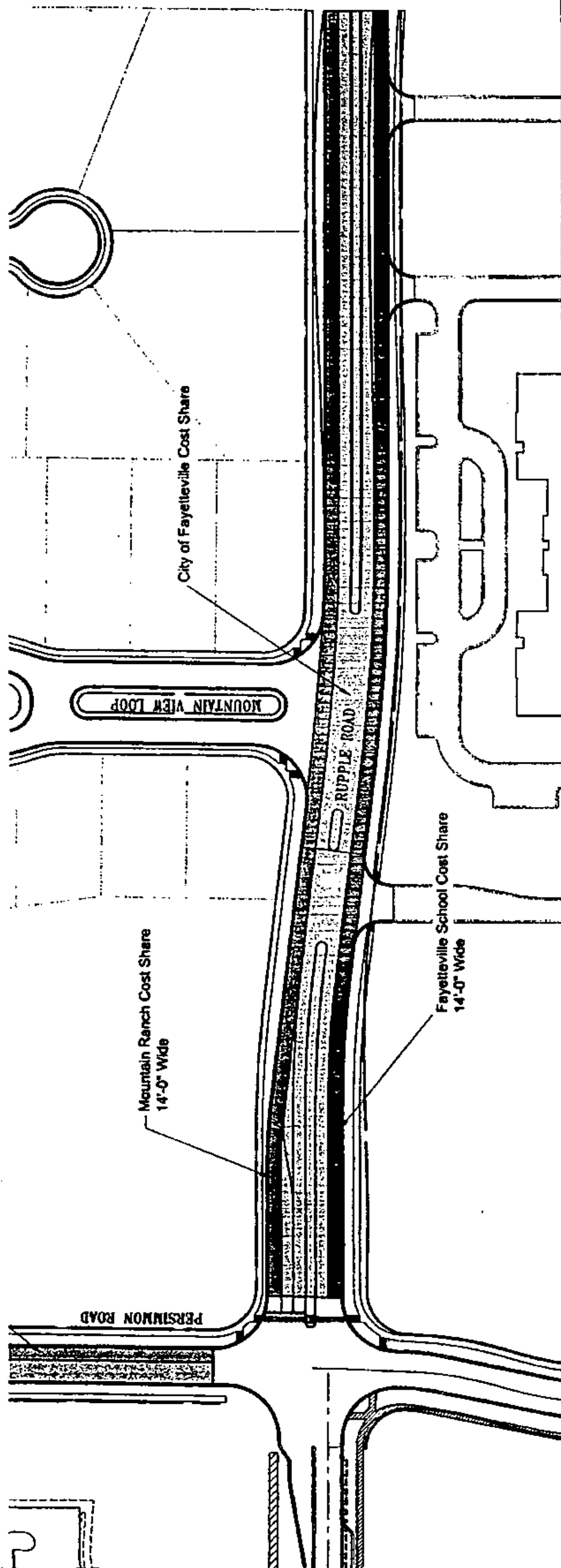
5. Presentation from McClelland Engineers of a progress report for the Kings Drive Reconstruction Study.

Ron Petrie said he thought it was appropriate to update the Committee on the progress of this item.



Ruppel Road Cost Share Exhibit Prepared For City of Fayetteville		Reserve LLC- Cost Share Agreement Page 16	
 Crafton, Tuill & Associates, Inc. 65 Bradley Cove Road, Russellville, Arkansas 72802 P.O. Box 10189, Russellville, Arkansas 72812-0189 479.968.1885 / FAX: 479.968.2081 / www.crafton.com		Architects, Engineers & Surveyors PROJECT NO. 041053-00 SHEET NO. 2	
DRAWN: JAC	DATE: 9-2-05	CHECKED: KJ	SCALE: NTS





Reserve LLC- Cost Share Agreement

Ruppel Road
Cost Share Exhibit
Prepared For
City of Fayetteville



Crafton, Tull & Associates, Inc.
50 Bradley Cove Road, Russellville, Arkansas 72802
P.O. Box 10169, Russellville, Arkansas 72812-0169
479.968.1885 / FAX: 479.968.2881 / www.ctaall.com

Architects, Engineers & Surveyors		PROJECT NO.		SHEET NO.	
DRAWN:	JAC	DATE:	9-2-05	041053-00	1
CHECKED:	KJJ	SCALE:	NTS		



**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

20-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

MDP C-PZD 05-1704: (First Baptist Church, 484): Submitted by Cromwell Architects Engineers in behalf of First Baptist Church for property located at 20 East Dickson Street, 325 and 321 North College Avenue, and 350 and 354 North Highland Avenue. The property is zoned C-2, Thoroughfare Commercial, and R-O, Residential Office, and contains approximately 4.08 acres. The request is to approve a Master Development Plan - Commercial Planned Zoning District for a church facility and associated parking.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12.2.05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 12-2-05
City Attorney

Original Contract Number: n/a

[Signature] 12.5.05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 12/2/05

[Signature] 12/6/05
Mayor Date

Received in Mayor's Office
ENTERED 12/6/05

Comments:

Left on the Second Reading 12/20/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 01, 2005

Subject: Commercial Planned Zoning District for First Baptist Church (C-PZD 05-1704)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for First Baptist Church, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 4.08 acres located at the northwest corner of College Avenue and Dickson Street. The proposal consists of a four phase addition and renovation of the existing structures on the property as well as the addition of parking areas to serve the church.

BACKGROUND

The property consists of several parcels totaling approximately 4.08 acres that is currently utilized for institutional (church) use. The applicant requests a rezoning and Master Development Plan approval for the subject property. The majority of the property is utilized by the First Baptist Church and parking to serve this use. Also located on the property is a vacant commercial building proposed to be renovated and a residential home which is proposed to be removed for parking. Access to the property is established on Highland Avenue and College Avenue.

The applicant requests a rezoning and Master Development Plan approval for expansion of the existing First Baptist Church. The project will include the removal of an existing house, the redevelopment of the former Goff-McNair building, and the construction of additional parking for a total 167 parking spaces. In addition to the renovation of existing structures, total area of new construction is 26,500 square feet. The enlargement of the facility will be for the construction of meeting rooms, though the existing auditorium which seats approximately 1,000 persons will be maintained. The proposed development is to occur under regulations of one Planning Area and in a total four Phases, with the parking area to be improved within Phase II. Phase I, the renovation of the existing sanctuary, is already underway. The projected time frame to secure all permits for full build-out is anticipated for 2015.

DISCUSSION

The Planning Commission voted 8-1-0 in favor of this request on November 28, 2005, with Commissioner Anthes voting no. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were amended and approved by the Planning Commission and are reflected in the attached staff report.

With the future submission of development plans, the applicant will be processing a request to development within the Master Street Plan right-of-way of College Avenue which will require Planning Commission and City Council consideration and approval for a lesser dedication of right-of-way on College Avenue.

Discussion at the Planning Commission centered on the long-term proposal for a parking deck, which was removed from the application, and the effect of a potential future rezoning of the property within the Downtown Zoning Code. It was concluded that like the I-540 Design Overlay District, staff, the Planning Commission, and the City Council will likely review recently approved rezoning and development for possible exceptions. This decision, however, will be made in the future.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 05-1704 FIRST BAPTIST CHURCH, LOCATED AT 20 EAST DICKSON STREET, 325 AND 321 NORTH COLLEGE AVENUE, AND 350 AND 354 NORTH HIGHLAND AVENUE, CONTAINING APPROXIMATELY 4.08 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From C-2, Thoroughfare Commercial and R-O, Residential Office, to C-PZD 05-1704 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP C-PZD 05-1704

A PART OF BLOCK NUMBERED TEN (10) OF THE COUNTRY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF LOT SIX (6) OF SAID BLOCK TEN (10), SAID POINT BEING IN DICKSON STREET; THEN N02°50'34"E ALONG THE WEST LINE OF SAID BLOCK TEN (10) 13.16 FEET TO A SET ½" IRON REBAR AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE AND THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET FOR THE TRUE POINT OF BEGINNING; THEN S87°03'19"E ALONG THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET 234.95 FEET TO A CHISELED "X" IN A CONCRETE SIDEWALK AT THE BEGINNING OF A TANGENT 50 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE 78.26 FEET, THE CHORD FOR WHICH BEING N47°47'09"E 70.51 FEET, TO A SET ½" IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THEN N02°37'37"E ALONG SAID RIGHT-OF-WAY 497.00 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE N87°03'20"W 140.39 FEET TO A SET ½" IRON BAR; THEN N02°50'33"E 105.25 FEET TO A SET ½" IRON REBAR ON THE SOUTH LINE OF LOT ONE (1) OF SAID BLOCK TEN (10); THEN N87°13'09"W ALONG THE SOUTH LINE OF SAID LOT ONE (1) 42.42 FEET TO AN EXISTING CONCRETE MONUMENT; THEN N02°33'24"E 67.78 FEET TO AN EXISTING IRON PIPE; THEN N87°22'40"W 99.89 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID BLOCK TEN (10), SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE; THEN S02°43'02"W ALONG THE EAST RIGHT-OF-WAY OF HIGHLAND AVENUE 67.50 FEET TO AN EXISTING ½" IRON REBAR; THEN S02°50'34"W 651.84 FEET TO THE POINT OF BEGINNING.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2005 *Updated December 1, 2005*

C-PZD 05-1704: Commercial Planned Zoning District (First Baptist Church): Submitted by Cromwell Architects Engineers in behalf of First Baptist Church for property located at 20 E. Dickson Street, 325 and 321 N College Avenue, and 350 and 354 N. Highland Avenue. The property is zoned C-2, Thoroughfare Commercial, and R-O, Residential Office and contains approximately 4.08 acres. The request is to approve a Master Development Plan – Commercial Planned Zoning District for a church facility and associated parking.

Property Owner: First Baptist Church of Fayetteville Planner: Suzanne Morgan

Findings:

Property Description: The property consists of several parcels totaling approximately 4.08 acres that is currently utilized for institutional (church) use. The applicant requests a rezoning and Master Development Plan approval for the subject 4.08 acres. The majority of the property is utilized by the First Baptist Church and parking to serve this use. Also located on the property is a vacant commercial building and a residential home. Access to the property is established on Highland Avenue and College Avenue.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Commercial	C-2 & RMF-24
South	Commercial (the old Jerry's)	C-2 & R-O
East	Commercial (First State Bank)	C-2
West	Central United Methodist Church	R-O

Proposal: The applicant requests a rezoning and Master Development Plan approval for expansion of a church institution on the property. The project will include the removal of an existing house and the redevelopment of the existing structure in which patrons of the church meet and the former Goff-McNair building into, the enlargement and connection of these structures, *and* parking areas ~~and a future parking deck~~. The enlargement of the facility will be for the construction of meeting rooms, though the existing auditorium which seats 1,000 persons will be maintained. The proposed development is to occur in ~~five~~ four Phases. According to the

applicant, Phase I, the renovation of the existing sanctuary, is already underway.

The applicant will add surface parking for a total 167 parking spaces with Phase II of the proposal ~~and another net 88 spaces with future development of a parking garage~~. Staff finds, through the review of this proposal, that the addition of parking lots along Lafayette Street in this area would be detrimental to the street character. While this proposal does not include additional parking along Lafayette Street, it is important to note that as parking increases with the expansion of the churches in the area, it is important to evaluate the street character, as indicated in the Downtown Master Plan.

Process: The purpose of the subject request is for a rezoning approval in order to allow the expansion of the First Baptist Church. In order to receive approval to expand the church over a long period of time, as funds are available, the applicant pursued the Planned Zoning District process. As recently approved by the City Council, an applicant has the option of presenting a Master Development Plan – Planned Zoning District to the Planning Commission and City Council. Approval of this Master Development Plan would effectively rezone the property based on the plans and information provided. However, it does not give development approval. The applicant is required to return through the large scale development process for each phase of expansion, in this case, in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

The following bulk and area regulations are proposed by the applicant, and are included in detail within the attached submittal:

ZONING CRITERIA: C-PZD 05-1704 (First Baptist Church)

(A) *Proposed Uses.*

Permitted Use	Conditional Use	Type of Use
Unit 4	None	Cultural & Recreational facilities

*Includes church, classrooms, assembly areas, and other uses associated with the church use.

(B) *Density/Intensity.* None

(C) *Bulk and area regulations.* None

(D) *Setback requirements.* None

(E) *Height.*

- a. Phase II – Two Stories (24')
- b. Phase III – One Story (14')
- c. Phase IV – Two Stories (24'); Steeple to be reconstructed at a maximum height of 88 feet measured from the main floor of the sanctuary/auditorium.
- d. ~~The proposed parking deck will be a maximum three levels in height.~~

(F) *Building area.* The area occupied by all buildings shall not exceed 60% of the total lot area.

Signage. Signage for the property shall be permitted in accordance with Commercial zoning district regulations in Ch. 174.

Signage on the property shall be allowed as follows:

Freestanding Signage	Wall Signage
Freestanding sign at College Ave. & Dickson St. Freestanding sign at Dickson St. and Highland Ave.	As permitted in Commercial zones; no other signage permitted

~~* No pylon/pole signs shall be permitted, only monument signs. Height and display area of each monument sign shall comply with ordinance requirements of Ch. 174 Signs.~~

Setback of Freestanding Signage:

- ~~Freestanding sign at College Avenue and Dickson Street: 15' (as shown on the plat)~~
- ~~Freestanding sign at Dickson Street and Highland Avenue: 0' (as shown on the plat)~~

~~Signage location shall be permitted in accordance with setbacks and other criteria in Ch. 174 Signs, unless noted herein.~~

Water & Sewer: Water and sewer are currently available. However, evaluations of the water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes clearer and as development may be continuing on the subject property over a long period of time. More specifically, the water distribution system may need to be upgraded by the developer to handle the increased demand for domestic and fire supply. The sanitary sewer system will need to be evaluated by the developer to show any deficiencies. Drainage improvements may include the installation of detention and/or improvements to the existing system.

Access: Access is provided to this property from an existing curb cut on College Avenue and from three access points on Highland Avenue. The applicant proposes the relocation and reconstruction of existing curb cuts onto Highland Avenue. Interior to the project private drives and parking areas are proposed.

Adjacent Master Street Plan Streets:

- Highland Avenue (ST – 55); Sufficient right-of-way exists for this street.
- Dickson Street (MS – 55: Main Street); Sufficient right-of-way exists for this street.
- College Avenue (Principal Collector); An additional 25' right-of-way is required for Master Street Plan compliance.

Street Improvements: Staff recommends the following:

- ♦ Construction of sidewalks in accordance with the Master Street Plan adjacent to College Avenue, Highland Avenue, and Dickson Street and through any existing or proposed driveway. The applicant requests the phasing of street improvements adjacent to College Avenue and Dickson Street to correspond with the phasing of construction to avoid the removal of new landscaping and sidewalk when renovating and adding to structures adjacent to the right-of-way. Other improvements will be recommended and determined by the Planning Commission at the time of development.

- ♦ Drainage improvements associated with street improvements will also need to be evaluated and required, as necessary, based on the City Engineer's recommendation and the Planning Commission's determination at the time of Large Scale Development.
- ♦ Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting, sidewalk and other surrounding or adjacent street improvements as determined by the Planning Commission to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.

Tree Preservation: There are several existing trees on the property which may be affected with the development of structures and parking lots. The Landscape Administrator has reviewed the site and suggested means to save some significant trees on the property. The PZD zoning requires preservation of 25% canopy on the site, which will be expected for the development of this property. At the time of development, the applicant shall submit a site analysis and tree preservation plan in accordance with ordinance requirements to be reviewed by the Landscape Administrator and reviewed for approval by the Planning Commission.

Parks: No residential dwelling units are proposed for this development. Should the property owner at any time request the approval of dwelling units on the property, contrary to the use allowed within this C-PZD, the City Council shall reconsider the zoning of the subject property.

Public Comment: Staff advised the applicant to contact the adjacent property owners regarding this request. Staff has received some inquiries from adjacent property owners, but no specific concerns have been voiced regarding this proposal.

Recommendation: Staff recommends forwarding the Master Development Plan – Planned Zoning District for First Baptist Church (C-PZD 05-1704), to the City Council for approval with the following conditions:

The Planning Commission voted 5-4-0, with Commissioners Graves, Clark, Vaught and Trumbo voting no, to (1) strike Condition #2 from the conditions of approval, (2) add additional language to Condition #9, (3) Include page numbers in the project booklet, and (4) Remove all references to the future parking deck (or Phase V) from the project booklet and the plat.

The Planning Commission voted 8-1-0 for approval of the rezoning with the following amended conditions:

Conditions of Approval:

1. The Planning Commission shall determine that the provided number of parking spaces is appropriate for the proposed use of the property. The applicant currently proposes to provide 167 parking spaces on the site; 175 spaces is the typical minimum permitted.
2. ~~Planning Commission determination of appropriate signage. The applicant shall comply with the commercial zoning district regulations for commercial signs. The applicant requests two monument signs at the corner of Dickson Street and College~~

~~Avenue and Dickson Street and Highland Avenue. Staff recommends that the requested monument signs meet setback regulations for monument signs within a commercial zoning district.~~

The Planning Commission voted to strike this condition. The applicant shall comply with the sign requirements of commercial zoning districts.

3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
4. Pursuant to city ordinance, development of the property shall be approved by the Planning Commission through the large scale development review process. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
5. Public water and sewer lines shall be extended as required by city ordinance at the time of development.
6. Street improvements at the time of development shall include, at minimum, the following:
 - Construction of sidewalks in accordance with the Master Street Plan adjacent to College Avenue, Highland Avenue, and Dickson Street and through any existing or proposed driveway. The applicant requests the phasing of street improvements adjacent to College Avenue and Dickson Street to correspond with the phasing of construction to avoid the removal of new landscaping and sidewalk when renovating and adding to structures adjacent to the right-of-way. Other improvements will be recommended and determined by the Planning Commission at the time of development.
 - Drainage improvements associated with street improvements will also need to be evaluated and required, as necessary, based on the City Engineer's recommendation and the Planning Commission's determination at the time of Large Scale Development.
 - Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting, sidewalk and other surrounding or adjacent street improvements as determined by the Planning Commission to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.
7. A Tree Preservation Plan that needs the Tree Preservation ordinance shall be prepared at the time of development. Trees that meet the significant tree status as determined by the Urban Forester shall remain, unless approved for removal by the Urban Forester. The applicant shall reference the attached comments from the Urban Forester and utilize them in future development proposals. Future development proposals shall

indicate compliance with the landscape requirements of the Unified Development at the time of submittal.

8. Staff recommends the establishment of a vegetative buffer between this property and any adjacent residential zoning, to be reviewed at the time of development.
9. All development shall meet applicable building codes and other ordinances of the City of Fayetteville. *Development on the subject property shall comply with City of Fayetteville ordinances, including the Downtown Master Plan, at the time of submittal of development plans, unless approved otherwise herein.*
10. The City Council approval of lesser dedication of right-of-way for College Avenue from the required 55' right-of-way from centerline to the requested 30' right-of-way from centerline prior to development approval for any Phase of development.
11. Zoning and development criteria shall be enforced as noted within the staff report "Zoning Criteria" sections A-F, as noted above. Said information shall be included with any submitted development plans.
12. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
13. Any right-of-way, easements, etc. which are required to be vacated to allow the approval of the proposed development shall be addressed prior to the approval of Phase II.
14. Phasing: The anticipated build-out is 2015 for Phases I, II, III, and IV ~~and 2026 for approval of Phase V~~. In order to ensure the proposed Master Development Plan meets all of the goals and criteria set forth, a phasing schedule is required. If certain permitting times are not met, the Planned Zoning District approval shall be voided, or extended as allowed by §166 of the UDC. The following development phasing shall be enforced:
 - Phase I: The applicant has stated that Phase I of the project is underway. Any other permit necessary for completion of Phase I shall be issued within 1 year of the passing of the ordinance.
 - Phase II: All necessary permits to begin construction of the project, pursuant to the criteria established in §166, shall be obtained within 3 years of the date of the ordinance passing.
 - Phase III: All necessary permits to begin construction of the project, pursuant to the criteria established in §166, shall be obtained within 3-6 years of the date of the ordinance passing.
 - Phase IV: All necessary permits to begin construction of the project, pursuant to the criteria established in §166, shall be obtained within 6-9 years of the date of the ordinance passing.
 - ~~Phase V: All necessary permits to begin construction of the project,~~

~~pursuant to the criteria established in §166, shall be obtained within 20
years of the date of the ordinance passing.~~

Planning Commission Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Meeting Date: November 28, 2005

Motion: Myres

Second: Clark

Vote: 8-1-0 with Commissioner Anthes voting no.

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____

Date _____

CITY COUNCIL ACTION:

yes Required

 Approved Denied

Date: _____

Comments:

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By _____

Date _____

Findings associated with C-PZD 05-1704

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for the expansion of an existing institutional use in the downtown area.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development may require the provision of public facilities, at the cost of the developer. Fire and emergency response time is adequate, as indicated in the attached correspondence.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, retains a downtown character with the structures built close to the street. The property is currently utilized for a church, as are several of the surrounding properties. Staff finds that the proposed use is compatible with these institutional and surrounding commercial and residential uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is suitable for the intended use, as it has undergone development in the past.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Based on the Master Development Plan submitted, traffic counts may increase. The applicant proposes the expansion of an existing church, however, the main auditorium is not proposed to be enlarged. At the time of development, the existing streets will be evaluated by the engineer and requirements made by the Planning Commission as to the extent of improvements necessary for development approval.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Conceptual architectural elevations of the proposed development and architectural standards have been proposed. Architectural standards will be evaluated at the time of development to ensure all buildings proposed adhere to the context of the neighborhood surroundings.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. The requirements of the Unified Development Code from which the applicant intends to vary include the parking ratio requirement (167 spaces are proposed, where the ordinance allows a minimum 175 spaces), the sign requirements and as with any other Planned Zoning District establish unique permitted uses and bulk and area regulations.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is required between the parking lot and the any residential use; with development of the site, all applicable development criteria will be applied for appropriate landscaping, screening and buffering of parking areas and objectionable uses.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress interior to the project shall be evaluated and required to be constructed with the large scale development of the property. Public streets shall be improved to an acceptable standard, as determined by the Planning Commission, and interior private drives shall be constructed to provide for safe and adequate access to all structures for emergency vehicles.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: The applicant proposes 167 spaces for to serve a main auditorium of 1,000 seats. Standard parking ratios require 1 parking space for every 4 seats. A minimum 175 spaces is allowed by ordinance for the proposed use.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development provides greenspace adjacent to the streets. Much of this property is currently impervious, though the expansion of the parking lot will reduce the amount of existing greenspace. Staff recommends that the development comply with the ordinance requirement to maintain 15% pervious surface and comply with the landscape requirements of the Unified Development Code at the time of submittal.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be evaluated at the time of development.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

**Paving Width
(No On-Street Parking)**

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development.

- (13) *Commercial design standards.* All PZD developments that contain office or

commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Institutional facilities, including a church use, are not required to comply with standard Commercial Design Standards, though the proposed structures are evaluated for compatibility with the consideration of a conditional use permit. The applicant has submitted proposed elevations and architectural design standards for the proposed development. All structures shall be evaluated as set forth in the project booklet, to ensure that the proposed buildings will adhere to the context of the surrounding commercial developments and existing church structure. Architectural elevations shall be reviewed at the time of development for a determination of this development standard of the proposed PZD.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or

revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance, where applicable.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing

natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds the uses to be compatible to the area, with the commitments, development standards, conditions of approval and other criteria in place with the rezoning request.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to C-PZD 05-1704, with one unique Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

D) *C-PZD, Commercial Planned Zoning District*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.
- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.

- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The proposed use of the property is confined to one specific use. A portion of the property owned by the applicant is currently being utilized for this use and it is a compatible use with the surrounding commercial and residential areas. The First Baptist Church is an established development and use in the downtown area. The requested Master Development Plan will allow an existing non-conforming use and structure to become compliant and encourage its longevity in the downtown area.

(2) Permitted Uses.

Unit 4	Cultural and recreational facilities
--------	--------------------------------------

FINDING: See Zoning Criteria Chart above for the use permitted by right as proposed by the applicant.

(3) Conditions.

- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.
- (b) Residential uses must be appropriate to the design of the project.
- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from C-2, Thoroughfare Commercial, and R-O, Residential Office, to C-PZD 05-1704, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Historic Commercial. Rezoning this property to C-PZD 05-1704, with the associated Master Development Plan, is not specifically consistent with the land use plan for this area, however it is consistent with the historic and existing use of this property and several other properties within the downtown also designated Historic Commercial. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is to a great degree consistent with many of the principles and policies in place**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is needed in order to develop the property for a church institution, a reduced setback, and a reduction in the parking requirements of the Unified Development Code without processing a conditional use requests, waiver requests, and variance applications.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning will not cause an increase in traffic, as the existing property is currently utilized as a church facility. The expansion of this use, however, will likely increase the amount of pedestrian and vehicular traffic on one or two days of the week. Street improvements will need to occur as a result, and shall be installed with development of the project. Staff finds the proposal will not appreciably increase traffic danger and congestion.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **Population density will not alter with the requested rezoning. There is one existing home on the property to be removed; however the majority of the property is developed for non-residential use.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**



Planning Commission of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

To: Cromwell Architects Engineers
From: Sarah K. Patterson (Urban Forester)
Date: September 6, 2005
Subject: Master Development Comments

ITEM #: PZD-Master Development Plan (First Baptist Church)

TREE PRESERVATION PLAN

1. Zoned PZD, a preserved canopy of 25% will be expected for this area. Significant tree canopies, as defined in the Landscape Manual, will need to be denoted on the Tree Preservation Plan so that their location can be compared to that of development.
2. In the overall design, significant trees in good condition will be expected to have a higher priority of preservation. I would stress the importance of designing structures that work around these trees versus complete removal.
3. A site analysis report with map will need to be submitted for review.
4. The Tree Preservation Plan should include all grading, proposed preservation areas, and canopy square foot calculations including existing, removed, and preserved.
5. For the planned parking lot expansion near Lafayette Street it will be important to identify and call out trees and their condition. It might be beneficial in this area to try to create islands and planters around existing trees. Preservation might be a better option in this area rather than starting new with small trees.
6. Near the Playground and Phase II addition there is an existing tree that could add many benefits to the playground area. It will take several years of growth for a new tree to provide as much shade as a well established tree found in an urban environment.

Depending on the health and species methods could be taken to possible preserve this tree
for future enjoyment.

MDP-CP2DPS-1704

~~Parcel~~ 3rd Submittal

Parcel Closes

11/8/2005 TJ

SURVEY DESCRIPTION

A PART OF BLOCK NUMBERED TEN (10) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF LOT SIX (6) OF SAID BLOCK TEN (10), SAID POINT BEING IN DICKSON STREET; THENCE N02°50'34"E ALONG THE WEST LINE OF SAID BLOCK TEN (10) 13.16 FEET TO A SET 1/2" IRON REBAR AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE AND THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET FOR THE TRUE POINT OF BEGINNING; THENCE S87°03'19"E ALONG THE NORTH RIGHT-OF-WAY LINE OF DICKSON STREET 234.95 FEET TO A CHISELED "X" IN A CONCRETE SIDEWALK AT THE BEGINNING OF A TANGENT 50 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE 78.26 FEET, THE CHORD FOR WHICH BEING N47°47'09"E 70.51 FEET, TO A SET 1/2" IRON REBAR AT THE POINT OF TANGENCY OF SAID CURVE, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THENCE N02°37'37"E ALONG SAID RIGHT-OF-WAY 497.00 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF COLLEGE AVENUE N87°03'20"W 140.39 FEET TO A SET 1/2" IRON REBAR; THENCE N02°50'33"E 105.25 FEET TO A SET 1/2" IRON REBAR ON THE SOUTH LINE OF LOT ONE (1) OF SAID BLOCK TEN (10); THENCE N87°13'09"W ALONG THE SOUTH LINE OF SAID LOT ONE (1) 42.42 FEET TO AN EXISTING CONCRETE MONUMENT; THENCE N02°33'24"E 67.78 FEET TO AN EXISTING IRON PIPE; THENCE N87°22'40"W 99.89 FEET TO AN EXISTING IRON ON THE WEST LINE OF SAID BLOCK TEN (10), SAID POINT ALSO BEING THE EAST RIGHT-OF-WAY LINE OF HIGHLAND AVENUE; THENCE S02°43'02"W ALONG THE EAST RIGHT-OF-WAY OF HIGHLAND AVENUE 67.50 FEET TO AN EXISTING 1/2" IRON REBAR; THENCE S02°50'34"W 651.84 FEET TO THE POINT OF BEGINNING.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

Wednesday, August 31, 2005

Jeremy Pate
Director of Current Planning
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate,

I am in receipt of the Master Development Plan of the PZD for the First Baptist Church located at Dickson Street and College Avenue. I was asked to share the proposed PZD with our Central Dispatch Center for input on any comments.

It is the opinion of the Fayetteville Police Department this PZD will have a negligible impact on calls for police service.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Turberville".

Lieutenant Rob Turberville
Fayetteville Police Department



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: November 2, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: November 7th First Baptist Church C-PZD.

First Baptist Church C-PZD

This Church is covered by Engine 1 and Ladder 1 located on Center Street. It is ½ mile from Station 1 with an anticipated response time of 2 minutes. Looking over the Plat Review Worksheet, which our Fire Marshal's office filed concerning this development, I see no problems with this addition to the Church. Typically, as with most assembly properties, there will be no adverse affect on our call volume.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department

FAYETTEVILLE FIRE DEPARTMENT

Office of the Fire Marshal

Plat Review Worksheet

Plat Name: MPD for PZD First Baptist Church / Dickson St.

Occupancy Classification: Mixed

Reviewed by: Battalion Chief Kyle S. Curry

Date: September 08, 2005

ACCESS

- ☒ Capable of supporting at least 75,000 pounds *AFC D102.1*
- ☐ Access roads have a minimum width of 20 feet *AFC 503.2.1*
- ☒ Buildings over 30 feet in height have access for aerial apparatus *AFC D105.1*
- ☒ Access roads for aerial apparatus have a minimum width of 26 feet *AFC D105.2*
- ☐ At least one aerial access located within 15 feet (minimum) to 30 feet (maximum) from structure *AFC D105.3*
- ☐ "Dead End" access roads in excess of 150 feet have appropriate turnaround provisions *AFC D103.4*
- ☐ Gated access has a minimum width of 20 feet *AFC D103.5*
- ☐ Means of securing gates be approved by Office of the Fire Marshal *AFC D103.5*
- ☐ "Fire Lanes" 20 - 26 feet in width marked on both sides of lane *AFC D103.6.1*
- ☐ "Fire Lanes" greater than 26 feet in width marked on one side of lane *AFC D103.6.2*
- ☐ "Fire Lanes" have a minimum width of 26 feet (*turnout*) at hydrant location *AFC D103.1*
- ☐ Multiple Family Residential with more than 100 dwelling units equipped with two separate access roads *AFC D106.1*
- ☐ One- or Two-Family dwelling developments with more than 30 units equipped with two separate access roads *AFC D107.1*

HYDRANTS

- ☐ Maximum distance between hydrants - 500 feet (fire flow requirement of 1750 gpm) *AFC C105*
- ☒ Maximum distance between hydrants - 500 (fire flow requirement of _____ gpm) *AFC C105*
- ☒ Dedicated hydrant within 100 feet of Fire Department Connection *NFPA 13*

FIRE PROTECTION SYSTEMS

- ☒ Sprinkler system required *AFC Ch. 9*
- ☐ Hood system required *AFC 609 and Ch. 9*
- ☒ Standpipe system required *AFC Ch. 9*
- ☒ Fire Alarm and Detection system required *AFC Ch. 9*
- ☐ Smoke and Heat Vents required *AFC Ch. 9*
- ☒ Fire Department Connections "free standing" (height of building + 15%) in area that is visible and designated to what structure it supplies *AFC Ch. 9/Requirement of F.F.D.*
- ☐ Fire Pump required

GENERAL

- ☐ Address numbers, names, and designations readily visible from street or frontage *AFC 505*
- ☒ Knox-Box or Knox Switch required *AFC 506*
- ☐ Fire Command Center required *AFC 509*

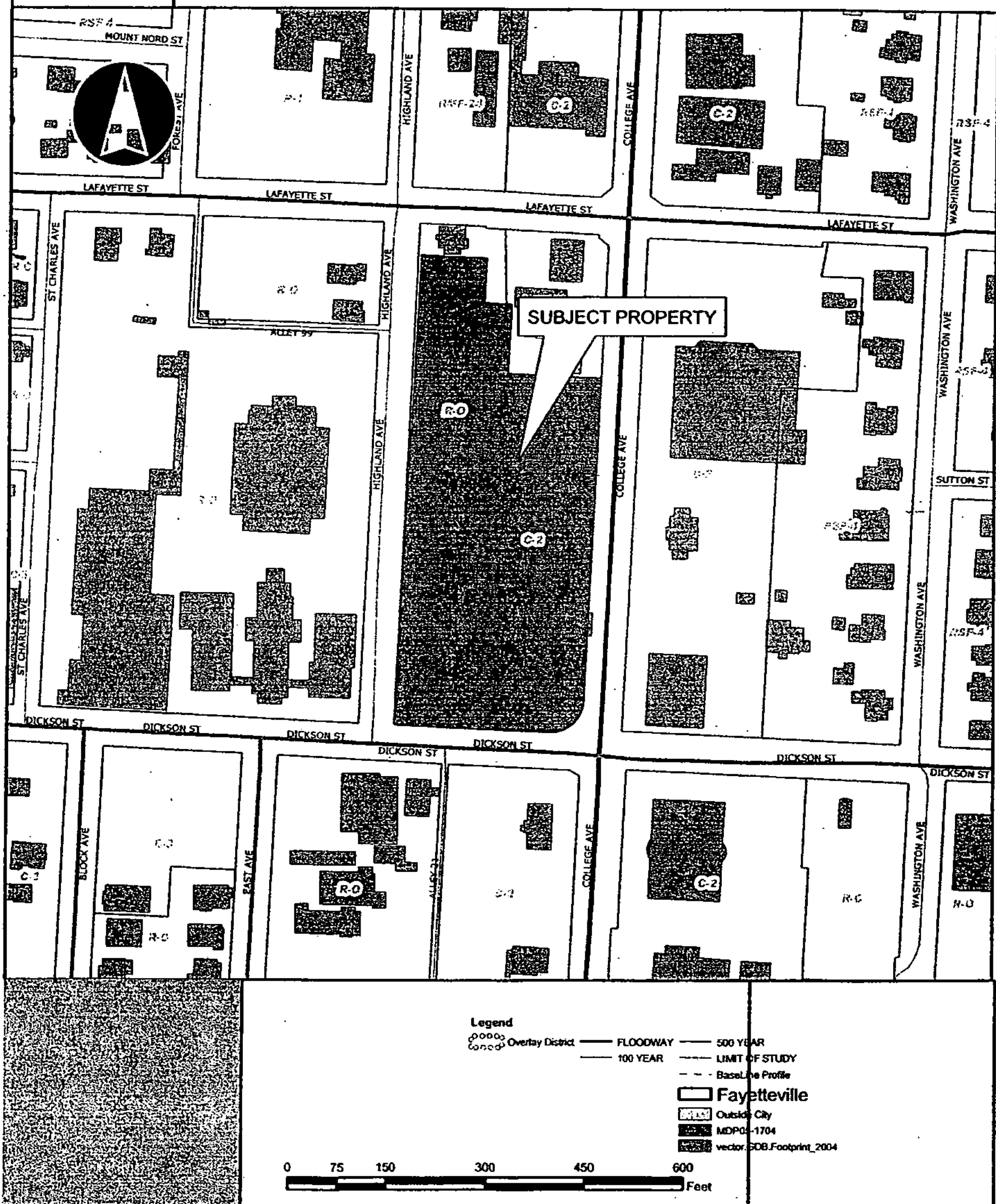
COMMENTS

- * All access roads need to have a minimum width of 26 feet in order to allow for aerial apparatus
- * Hydrant spacing will need to be a maximum of 300 feet
- * Structure will need to be equipped with a sprinkler system
- * Free standing FDC located to the north of the west drive at the south west corner of structure
- * Dedicated hydrant within 100 feet of FDC
- * Fire alarm and detection systems will be required

MDP05-1704

Close Up View

FIRST BAPTIST CHURCH

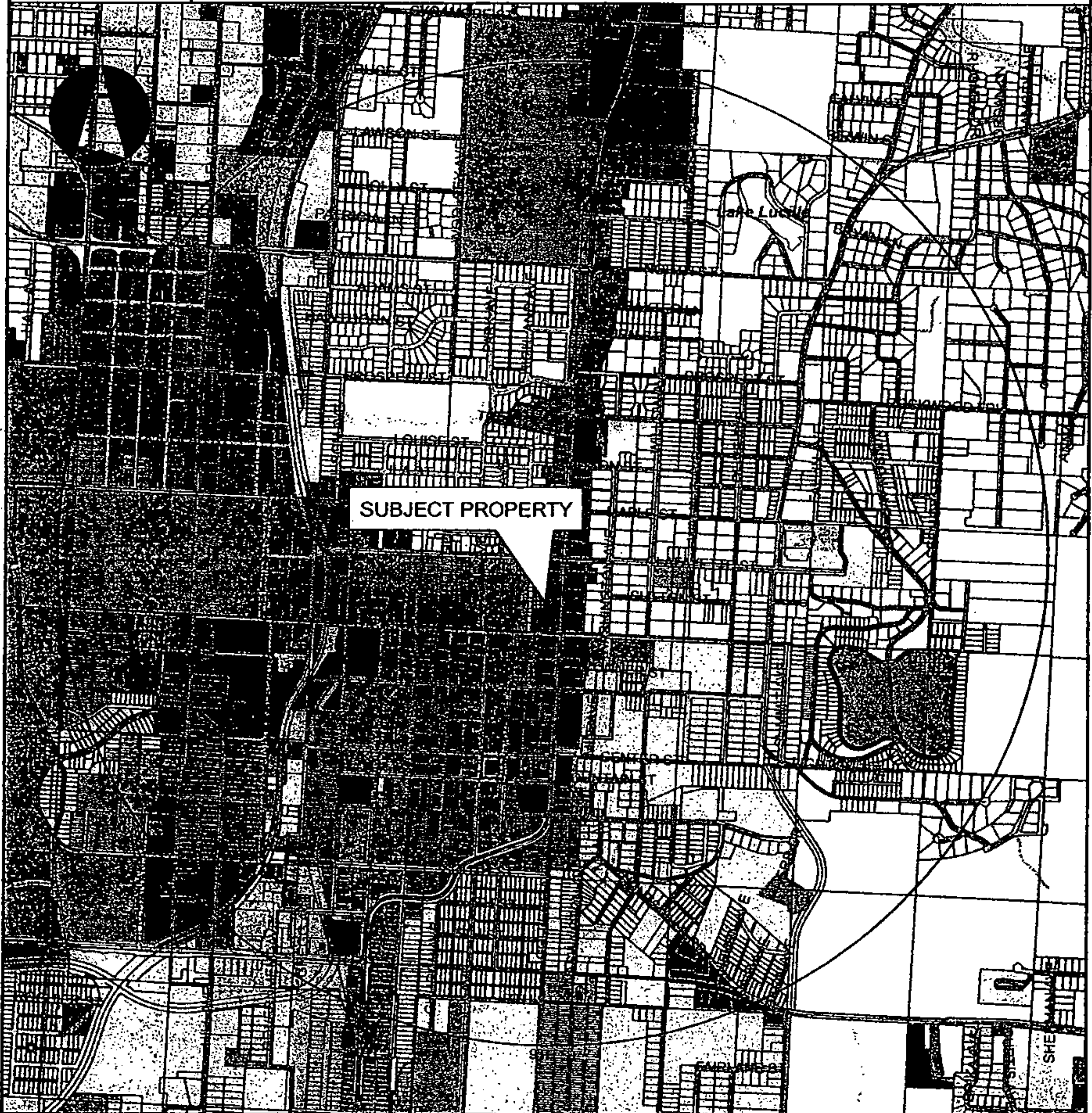


MDP05-1704

One Mile View

FIRST BAPTIST CHURCH

C-PZD 05-1704 First Baptist Church
Page 33 of 68



Overview

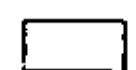
Legend

Subject Property

 MDP05-1704

Boundary

 Planning Area

 Outside City

0 0.125 0.25 0.5 0.75 1
 Miles

Application for
Planned Zoning District
(C-PZD)

FIRST BAPTIST CHURCH

Fayetteville, Arkansas

12-01-05

GENERAL PROVISIONS

Authority

This PZD master development plan is authorized by sections 161 and 166-Planned Zoning Districts of the City of Fayetteville Unified Development Code. The provisions of this PZD master development plan shall run with the land. The landowners, their successors, heirs, or assigns shall be bound by this master development plan, as amended and approved by the City Council.

Adoption

The adoption of this PZD master development plan shall evidence the findings and decision of the Fayetteville City Council that this Planned Zoning District for First Baptist Church is in general conformity with the Fayetteville General Plan 2020; is authorized by the provisions of Sections 161 and 166 of the City of Fayetteville Unified Development Code.

The provisions of this PZD master development plan shall prevail and govern the development of First Baptist Church, provided, however, that where the provisions of this Master development plan do not address a particular subject, the relevant provisions of the City of Fayetteville Unified Development Code, as amended, or any other applicable resolutions or regulations of the City of Fayetteville, shall be applicable.

Enforcement

To further the mutual interest of the residents, occupants, and owners of the PZD Master development plan and of the public in the preservation of the integrity of the Plan, the provisions of this Plan relating to the use of land, statement of commitments, development and architectural standards, and the location of common open space shall run in favor of the City of Fayetteville and shall be enforceable at law or in equity by the City without limitation on any other power or regulation otherwise granted by law.

Conflict

Where there is more than one provision within the PZD Master Development Plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator.

Maximum Level of Development

The total number of dwellings or the total commercial, business, or industrial intensity approved for development within the Planning Areas is the maximum development requested for platting or construction. The actual number of dwellings or level of development for commercial, business, or industrial properties may be less due to subdivision or site improvement plan requirements or other requirements of the City Council.

Project Tracking

At the time of subdivision final plat or large scale development the applicant shall provide a summary of the development, to date, to the Planning Division, in order to assure maximum development limits are not exceeded.

Application for a Planned Zoning District
Non-Residential Development

Landowner:

First Baptist Church
20 East Dickson St.
Fayetteville, AR 72701

Representative:

Cromwell Architect Engineer
107 N. Block St.
Fayetteville, AR 72701

1. GENERAL PROJECT CONCEPT

As shown on the proposed Master Development Plan the church has set forth a phased development of the property that combines additions to and renovations of the existing facility buildings. It also shows the alteration of existing parking areas to accommodate the proposed additions, enhance traffic circulation, and provide new areas of landscaping.

Inasmuch as the church sanctuary seating capacity is actually being reduced as a result of the currently in-progress renovation of the sanctuary (Phase I of the MDP) the church's vision is more oriented toward the following goals. 1) The alleviation of inadequate facilities for the services and ministries offered for the congregation. These include updating and expansion of children's department, rearrangement of classroom spaces for better access for the elderly members of the church, and other provisions for improvement. 2) The resolution of long standing internal circulation problems that have plagued the use of the facility for many years, and, 3) the re-establishment of the church's historical identity on the corner of College and Dickson, by the installation of a usable and appropriately sized front entrance and foyer with orientation to the intersection.

As shown on the MDP site plan, the church expects to proceed through four phases of development.

Phase I is the wholly internal renovation of the existing sanctuary. This phase is currently underway.

Phase II consists of the addition of children's classrooms and circulation to join the former Goff-McNair building to the church facility. It also includes the renovation of a portion of the Goff-McNair building, and the alteration of the existing parking area to provide the church with full available parking capacity. New landscaping in compliance with the City Landscape Ordinance will be accomplished also. Phase II is anticipated to

be undertaken in the next 1-3 years, as funding is available.

Phase III will continue the renovation of the Goff-McNair building and add classrooms and circulation to connect to the east end of the existing sanctuary, as well as additional landscape areas along College Ave. These additions will initiate the creation of connective elements along College Ave. to produce the street-wall effect envisioned in the city's master plan. The church anticipates undertaking Phase III 1-3 years following the completion of Phase II, as funding is available.

Phase IV consists of the creation of a new front entrance and foyer to the south of the existing sanctuary. This addition is intended to re-establish the public image of the church on the intersection of College and Dickson while providing a usable main entry to the church as well as finalizing the creation of a fully integrated circulation system within the church campus. It will be accompanied by extensive landscaping, including the retaining of large mature maple trees, to appropriately define the nature of this important city focal point. Phase IV is anticipated to be undertaken in 1-3 years following the completion of Phase III, as funding is available.

In addition to these phases the church envisions the replacement of the existing steeple atop the central church tower with an open bell tower in keeping with the scale and design of the existing tower base. In addition the church plans to erect one low monument sign on the property at the location shown on the Master Development Plan. These elements will be undertaken during one of the phases listed above as funds are available.

The development elements of this plan, buildings, paved areas and landscaping will have the following types of impact. Surface run-off and drainage will have the same pattern as the existing drainage pattern. And while the altered parking area will add to drainage quantities, the addition of landscaped islands and perimeter landscaping, as well as the removal of existing curb-cuts and drives, will yield a more or less commensurate reduction in drainage quantities. The development will be compatible with the surrounding land use patterns, all of which is commercial or institutional in nature. Such needs as are deemed necessary in compliance with the requirements of the UDC in terms of Buffers and Screening, Landscaping, and Tree Preservation will be incorporated into the detail of design at the time of Large Scale Development Review. As to the impact on city services, the additional use of water and sewer services would appear not to be significant; and, while it is the hope of the church that the use of the facility will be increased with this development the impact on existing traffic patterns will not be significant.

The proposed additions and renovations to the facility will be constructed in accordance with the city's adopted building code at the time of the issuance of a building permit and will employ all the necessary measures required by code for fire protection.

Being a non-residential development this plan does not provide for any internal streets, lots, parks or separate planning areas. As well there are no natural or man-made hazards or resource areas in its boundaries other than those falling under the guidelines for tree preservation.

Proposed Zoning and Development Standards

ZONING STANDARDS

- A. Permitted Uses : Church Facility – Use Unit 4
- B. Conditional Uses : None
- C. Bulk and Area Regulations : None
- D. Density : None
- E. Setback Regulations : Front - None
 Side - None
 Rear - None
- F. Height Regulations : Building height not to exceed height of 88 feet
 measured from main floor of sanctuary
- G. Building Area : The area occupied by all buildings shall not exceed
 60% of the total area of the property.

DEVELOPMENT/ARCHITECTURAL STANDARDS

The design of proposed additions and renovations will continue the current building heights and general massing, and will employ sloping and low slope roofs.

The materials employed will fuse the existing buff brick with window walls comprised of translucent and transparent glazing. These window walls will echo typically traditional window forms as well as larger scaled combinations to achieve a new, more lively façade texture. Trim materials will follow the stone appearance of the existing dressings with both concrete and synthetic stucco.

As can be seen in the accompanying depictions, the proposed additions along College Ave. are intended to engage the guidelines of the city's master plan to foster appropriate street-wall elements, while the proposed new main entrance and its garden setting are intended to provide the intersection of College and Dickson an appropriately scaled definition of the church's quadrant of the intersection.

Site design elements will incorporate typical existing materials, concrete walks at secondary locations and patterned concrete at prominent locations such as the proposed new main entrances. With the exception of the walks at the intersection of College and Dickson, existing sidewalks will be maintained, or replaced where derelict, in their current configurations on the perimeter, and will meet the requirements of Section 166.03. All proposed landscaping will comply with current City Landscape Ordinance. Current street lighting will be maintained in place. Fencing indicated will meet requirements City Buffer and Screening ordinance at the time of Large Scale Development Review. A monument sign, indicated on the MDP, is proposed to be erected during the phases of development, and will comply with the City sign ordinance in area, height and setback. It will be constructed of materials compatible with the building, brick and stone with either applied or incised lettering.

The surface parking shown on the MDP will be accomplished in Phase II, and will comply with the requirements of Chapter 172 of the UDC. The proposed future parking deck will meet the requirements of Chapter 172 of the UDC as well as the requirements of the City building code.

PHASE DATA

PHASE II

AREA

HEIGHT

NEW CONSTR
16,700 SF

RENOVATION
6,800 SF

TWO STORY - 24 FEET

PHASE III

AREA

HEIGHT

NEW CONSTR
3,800 SF

RENOVATION
10,400 SF

ONE STORY - 14 FEET

PHASE IV

AREA

HEIGHT

NEW CONSTR
6,000 SF

RENOVATION
500 SF

TWO STORY - 24 FEET

TABLE OF COMPARATIVE ZONING REGULATIONS

	C-PZD	C-2	R-0
A. PERMITTED USES	CHURCH FACILITY (USE UNIT 4)	Units 1,4,12,13,14,15,16,17,18,19,20,33 and 34	Units 1,5,8,9,11,12 and 25
B. CONDITIONAL USES	NONE	Units 2,3,21,28,32,35	Units 2,3,4,13,24,26 and 36
C. BULK and AREA REGULATIONS	NONE	NONE	NONE
D. DENSITY	NONE	NONE	Inapplicable residential requirements
E. SETBACK REGULATIONS	Front None Side None Rear None	Front 50 ft Side None Side when contiguous to residential 15 ft Rear None	Front 30 ft Side 10 ft Side when contiguous to residential 15 ft Rear w/o easement 25 ft Rear from center-line of public alley 10 ft
F. HEIGHT REGULATIONS	Building height not to exceed 88 feet, as measured from main floor of sanctuary.	Any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.	There shall be no maximum height limits in R-0 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any R-0 or R-0F District an additional distance of one foot for each foot of height in excess of 20 feet.
G. BUILDING AREA	The area occupied by all buildings shall not exceed 60% of the total area of the property comprising this Planned Zoning District.	On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.	On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

LAND USE TABLE

USE	AREA	MOORAGE	Z
CHURCH FACILITY USE UNIT 4	95,000 sq	4.1 AC	53%

ZONING REGULATIONS

B. 3
C-PZD 05-1704 First Baptist Church
Page 42 of 68

A. PERMITTED USES

USE UNIT 4	CHURCH FACILITY
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B. CONDITIONAL USES

NONE

C. BULK and AREA REGULATIONS

NONE

D. DENSITY

NONE

E. SETBACK REGULATIONS

Front	None
Side	None
Rear	None

F. HEIGHT REGULATIONS

Building height not to exceed 88 feet, as measured from main floor of sanctuary.

G. BUILDING AREA

The area occupied by all buildings shall not exceed 60% of the total area of the property comprising this Planned Zoning District.
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STATEMENT OF COMMITMENTS

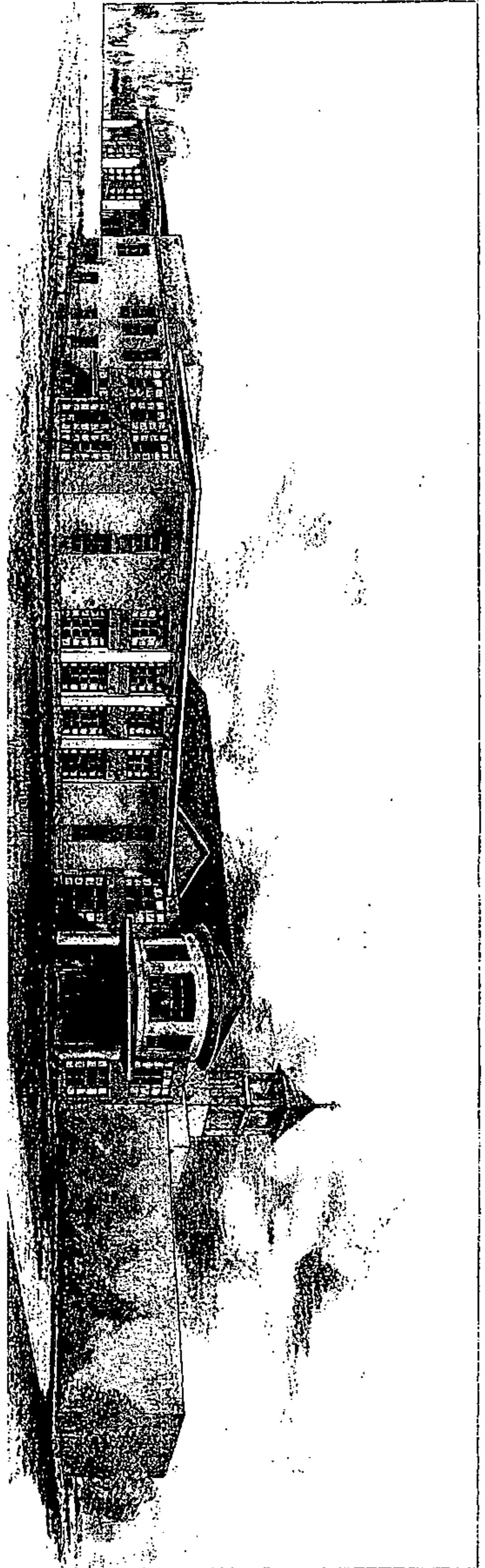
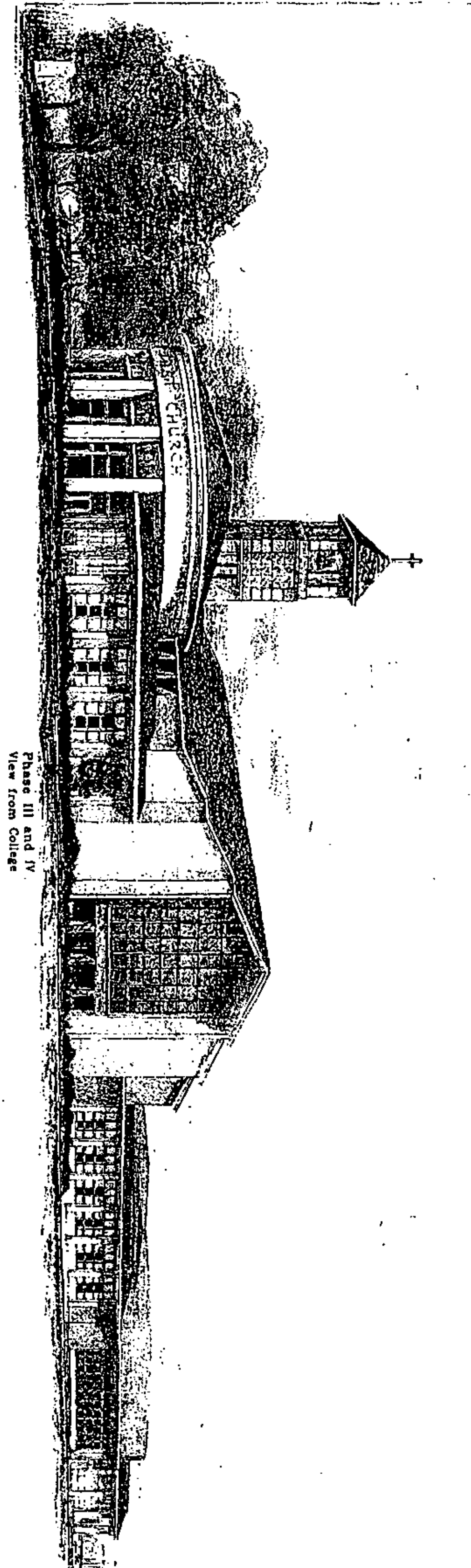
First Baptist Church will comply with such requirements as are deemed necessary in accordance with Chapter 167 Tree Preservation and Protection of the UDC.

First Baptist Church will undertake the proposed phasing as set out in the General Project Concept. The church's envisioned timetable is dependent upon financial capability.

First Baptist Church will ensure that all buildings set forth in this development plan will be constructed in accordance with the adopted building code of the City of Fayetteville and will as such provide necessary measures for fire protection in accordance with that code.

First Baptist Church will ensure that all sidewalks, street lighting, water, sewer, street access and drainage will comply with City of Fayetteville regulations.

First Baptist Church will provide the surface parking shown on the MDP during Phase II of the proposed Master Plan of Development.



Planning Commission
November 28, 2005
Page 1

C-PZD 05-1704 First Baptist Church

Commissioner Ostner: The next item is C-PZD 05-1704 for First Baptist Church.

Ms. Morgan read the staff report. This is a unique request for approval of a Master Development Plan Commercial Planned Zoning District for First Baptist Church located at the corner of Dickson and College Ave. This request is for approval of a rezoning and future development which will occur in 5 phases. At this time, what is before you is not detailed plans for this development with specific street improvements outlined, etc. However, this is a zoning issue and will establish the land use and building requirements, bulk and area, and signage usage for this property. This property is currently being utilized for First Baptist Church and buildings surrounding the property. The applicant desires to enlarge this structure as shown on the plan before you. With this proposal, additional parking would be provided in a coming phase with a parking deck on the property. The applicant proposes this in five phases, which includes the renovation of the existing building that is occurring at this time. The applicant proposes compliance with the majority of the requirements of the Unified Development Code. There are some slight modifications; the parking proposed is for a total of 167 parking spaces - with current ordinances a minimum 175 parking spaces are allowed, so the applicants are requesting eight fewer spaces without a conditional use approval. That is addressed in condition one of the conditions of approval. Briefly going through the zoning criteria proposed, the proposed use unit is Use Unit 4, Cultural and recreational facilities, which allows for church use. The property is currently zoned C-2 and R-O and requires a conditional use approval for this use. The density or intensity is listed as none which will allow for the proposed development. They are establishing a maximum buildable area of 60% of the property. Height regulations are listed for each phase of development with phase two being two stories, as well as phase four. Phase three is a one story proposal at 14 ft; the parking deck would be maximum of 3 levels in height, with a net 88 spaces. There are not any setback requirements which would allow the development of this building to the property line. The current existing structure is built within the Master Street Plan right-of-way for College Ave. The applicant is required to process a request for lesser dedication of right-of-way for College Ave. and potentially Dickson St, depending on where the building is located adjacent to the right-of-way. However, this would be done at the time of the development and the conditions we listed in the staff report reflect this. With regard to signage, the applicant is proposing something a little different than what is typically allowed for monument signs. The applicant is proposing two monument signs on the property, one at the corner of Dickson and College and a second at the corner of Dickson and Highland. The applicant proposes a 15 ft setback for the monument sign on Dickson and a zero-foot set back for the one on Highland and Dickson. Staff recommends the requested monument signs, as long as they meet the regulations set forth in the Commercial Zoning District requirements. We have included that as the second condition requesting Planning Commission review. There are proposals for phasing, shown in shading, based on the development plans. Construction of sidewalks will be in compliance with the Master Street Plan adjacent to College and Dickson. The applicant requests the phasing of street improvements to correspond with the phasing of

Planning Commission

November 28, 2005

Page 2

construction to remove any landscaping or sidewalks during renovation. Since we are not reviewing development at this time, the applicant will be required to come through review for each of its phases as a large scale development. No residential dwelling units are proposed. Listed are 14 conditions of approval, and staff is recommending forwarding this Master Development Plan to the City Council for consideration.

Mr. Thad Kelly with Cromwell Architects represented the applicant. He stated that the proposed right-of-way off of College is a huge issue with them, that it takes 20 feet of the building that is already existing. He showed where the line would be on the map. The point being made is that they would prefer condition number 10. This is important for the whole project. We can not build in a right-of-way. He stated that they tried to enhance the corner of College and Dickson with a structure that builds a streetscape and landscaping. Better flow and circulation of the church and internal processes would be achieved. It would be done in phases in the next 22 years, and the parking deck would be the last thing. This was planned in mind to engage the city's master plan for the street/wall elements along College. We agree with everything that staff recommends, including establishment of vegetation as a buffer to any adjacent residential property. Part of the reason we are doing this is due to the zoning, which is from a different era when this was R-O. We are trying to do this as a current PZD to get away from the R-O. Everything that is touching us or near us is commercial. He cited buildings in the surrounding area as examples.

Commissioner Ostner opened the floor to public comment. There was no public comment.

Commissioner Trumbo stated he had a question on the monument signs, what is shown on the plat given to us, is this set in stone?

Mr. Pate stated it is not set in stone, but as with all Master Development Plans, this is a template, to see what the developer is going to do with the fully designed project. No, we do not anticipate that is exactly where the monument signs will be, but they will be in that general area. Condition 2 in the staff report states that the monument signs must meet the setback requirements within a commercial zoning district. Signage is a zoning issue and ties back to the zoning ordinances. Staff approval is based on the setback requirements that are required in that zoning district.

Commissioner Vaught stated that they never had anything this long term in phases before, is that acceptable in a PZD?

Mr. Pate stated that City Council and Planning Commission will determine if it is appropriate, with their review of the master plan.

Commissioner Vaught stated that phase five is the parking deck.

Mr. Pate stated that is correct.

Planning Commission

November 28, 2005

Page 3

Commissioner Ostner stated he would like to know where the parking deck is slated to go.

Mr. Kelly stated that the parking deck would be between them and the Thrifty Nickel, at grade with College Avenue, and extending out to three levels on Highland. There is a grade change on one deck level there. We could laminate a building on the street edge if needed. Mr. Vaught, on the phase question, the church has been there for 150 years, and this document is to let you know that they intend to build for next 22 years.

Commissioner Vaught directed his question to Mr. Pate on the parking deck requirements. With the calculations, with a parking deck, will that allow 167 parking spaces?

Mr. Pate stated that 167 spaces are shown on the plans, with the addition of the parking deck it would allow 88 net spaces to be provided.

Commissioner Allen stated when the parking deck is completed, would they be willing to do some shared parking during the times you don't have church activities going on, with other business on Dickson Street?

Mr. Kelly noted that the church has been very accommodating with the businesses in the surrounding area. He didn't see any problem with that. Also, the parking was based on the 1000 seats in the auditorium. However, with the renovation that is going on currently, the church has decreased the seating and moved people around.

Commissioner Ostner stated he understands that this is a Master Development Plan, and they are not asking for development, but how does this work with our rezoning and Unified Development Code? Besides the discrepancy with the right-of-way on College, he thought a proposal needed a zoning change that did not fit in with current codes to propose a Master Development Plan. Why are we seeing this, and not a large scale development with right-of-way issues?

Mr. Pate stated that the problem of the existing right-of-way is only one; issues with setbacks and zoning is another. He explained these issues to Commissioner Ostner.

Commissioner Ostner stated due to the right-of-way issue, zoning, and conditional uses required for a church, we see it as a PZD. He stated he understands it now.

Commissioner Vaught stated that nothing on the drawing states phase 5, do we need to make it say phase 5 for the parking deck on the paperwork as stated?

Mr. Pate stated it can be, as it is stated in the conditions.

Commissioner Lack stated his concern with the parking deck. Listed in the booklet in phase 4, the parking deck is mentioned. He stated his concern on the open door this will give someone in the future. With it mentioned in Phase 4, it will allow an open deck area and height limitations.

Planning Commission

November 28, 2005

Page 4

This would limit the 2 story parking area to a 24 ft. height, but he can also see the desirability of the liner building and the streetscape.

Mr. Kelly stated that the confusion of the height is that the 88 feet is the existing building and it would go no higher than that.

Commissioner Lack stated that in the booklet for phase 4, there are diagrams with calculated height requirements for each phase. He sees a limitation to the two story parking deck.

Ms. Morgan stated in the booklet at one point in time all of the phases were broken down and phase five was specifically identified as the parking deck. It appears in revisions if you look on page 2 of the general concept, discussion of phase 4, it states in the second paragraph, mid-way down, that at some unknown future date, the applicant envisions a 2-3 level parking deck. And the parking deck is shown in the plans schematically.

Commissioner Lack stated with the limitation of heights to go by phase, we do not have a height requirement established for the parking garage.

Mr. Kelly stated the garage should be in the required 24 feet height requirements. The cars would be taller than that, but the structure itself would be open on the top.

Commissioner Lack stated that would be acceptable if added as a condition or part of the development plan.

Mr. Murphy with Cromwell Architects stated the parking deck is a future consideration that the church has in mind, not being very specific at this time. It is a thought towards two things: One, to provide the church with the availability to increase their parking. The parking deck is described as a 2-3 story building. Twenty years from now, the city's point-of-view about parking may change, or the city might ask them to build a 3 story parking deck, then add one story. But it is not very well flushed out now. What Thad said about the height is true, because of the change in grade there it would be in the keeping with the building heights in the surrounding areas.

Commissioner Lack stated we are being asked to approve a master plan and we are establishing those criteria for all the other phases. The one phase that would have the most potential for concern is the parking garage. We do not want to end up with an open parking deck on the streetscape and the loss of that facade.

Mr. Murphy asked Commissioner Lack if it was his recommendation to amend our proposal to provide a more specific description of the deck?

Commissioner Lack stated looking into this as an over-all Master Plan that was his assessment of it, and would like to hear from the other commissioners.

Planning Commission
November 28, 2005
Page 5

Mr. Murphy stated he would like to address the parking deck in general, at this point. He stated again, that there were two purposes to the parking deck. One being the church's use of it, due to the overall parking situation in Fayetteville and the ideal structure to meet the current PZD. He stated again that these are plans for the far future, and it was good to think in those terms. He also mentions that possibly pulling the parking deck from the proposal at this time to go forward would be a good idea.

Commissioner Lack stated that he would like to applaud the idea of using a parking deck with an urban church in this urban campus.

Commissioner Graves stated that he was going to propose, before the applicant had, to possibly remove the parking deck from this particular application; due to it being so far off in the future, and not even knowing if they are going to be doing it. If they do, they don't seem to know what it would possibly look like. The applicant seems pretty knowledgeable in the other areas of what they want, and he states he doesn't feel comfortable binding the Planning Commission 20 years from now. He states an example of this and advised that it would be a good idea to pull this from the application.

Commissioner Vaught stated he also applauds the idea of the parking deck. He asks Mr. Pate if they should strike the whole parking deck out, or leave a part of it. Will it come in as a large scale development, or how will they go about that in the future.

Mr. Pate stated it is really up to the Commission, if they feel it is more appropriate to strike it or do not feel comfortable with it at this time. Staff felt it was a major component for this downtown development to have structured parking, as opposed to surface parking. This has been an issue for many of the churches in this downtown area. If the applicant has no problem of striking it at this time, we see no problem in it. Parking decks can be added at a later date.

Commissioner Vaught directed a question to Mr. Williams. If we approve this, under the Master Development Plan, will the applicant be subject to the Downtown Zoning Code once passed?

Mr. Williams stated that it might be subject to both of them, though this will be granting them the approval to build it. It is not final approval, because they do have to come through as a large scale development and comply with the existing ordinances. This is more of a rezoning issue, and the location of various buildings, which they are showing.

Commissioner Vaught stated that if the Master Development Plan passes, and one year or 10 years from now, for this parking deck they come forward with the liner buildings, they will be held accountable for the standards at that time, not what is being passed now.

Mr. Williams stated that this is an difficult question, because you would be approving a parking deck here, whether or not it is required in the future to have a liner building with the parking

Planning Commission

November 28, 2005

Page 6

deck or not. That part may not be enforceable down the road in the Master Plan, assuming it would be approved.

Commissioner Vaught stated again about the time frame of the parking deck and the issues of not knowing what could happen in the next 20 years. His concern is whether to keep it in the Master Development Plan or take it out, or add some kind of condition stating that at the time of approval, those are the guidelines that need to be met.

Mr. Pate stated its better to remove it altogether for the packet to the City Council for the zoning decision rather than add arbitrary conditions. They may still be the drawings, but we can state that it is a future use.

Commissioner Vaught stated that they would then come back with an amendment to the Master Development Plan at the time they would be ready to do that.

Mr. Pate agreed.

Commissioner Graves stated his follow-up concerns, which were the same as his previous statements and coincided with Commissioner Vaught.

Commissioner Ostner stated he was thinking along the same lines, if somewhere in the applicant's proposal, it could state that if they are willing to build the garage in the future, with this proposal giving no permissions of any sort, possibly in the statement of commitments. The parking deck does make things more confusing.

Mr. Murphy stated the church would like to remove the parking deck from the application.

Commissioner Ostner asked the staff if there would be significant changes in the drawings that would need to reflect this new situation.

Mr. Pate stated not for the Planning Commission, the drawings will not be a problem and it is not directly stated in the booklet, as Commissioner Lack stated. We will remove it from our staff report, if that is the Commission's wish. We will refer to it as a potential action and not a phase.

Commissioner Anthes stated she has a question on the timing. The infrastructure is being built for the parking deck in the first phases, for the future of the parking deck. The Master Development Plan states the maximum limit of development, and if we remove the parking deck from it, we would be exceeding the maximum development allowed in this zoning.

Mr. Williams stated that would be true unless it was an amendment to the Master Development Plan that was presented by the applicant to ensure in the future any revisiting of the zoning issues, by the City Council and Planning Commission in this particular case. What you say is correct, but they can come back in the future and say they want a change to this Master

Planning Commission
November 28, 2005

Page 7

Development Plan that was approved in 2005, and list the reasons. The Planning Commission can look at that and it would not be in violation of that policy.

Commissioner Anthes stated if nothing is planned for that site, then we would get a large surface parking lot.

Commissioner Ostner asked if anyone was opposed to taking out the parking deck in the proposal.

Commissioner Anthes stated that she is not comfortable yet with that decision.

Commissioner Ostner stated that he would take that as opposed. No one else opposed. He stated that the informal reflection in the conditions and record reflect that eight of us are in favor of the parking deck being removed from the proposal, and one is opposed to it.

Commissioner Anthes stated she had no problem with the land use as a church, but does have questions on the bulk and area requirements, and on the lack of time requirements, compared to our other PZD processes. The applicant has stated that their intention is to reflect the Downtown Development and Downtown Master Plan in their development. The staff report indicates the addition of parking lots off of Lafayette Street in the area would be detrimental for street character. She states that the development shown is also highly detrimental for the street character of Highland Avenue. It is almost all surface parking lots along the entire length of Highland Avenue, which I don't believe is in keeping of the principle of the Downtown Master Plan or with the development as we are envisioning it for the future. That leads into the heights of the buildings that are being requested in the different phases. One shows one story on College Avenue, but in the surrounding area, the minimum is 2 or 3 stories on our major streets. She states that the one story addition is not in keeping for downtown. Also, the Planning Commission is talking of the height limitations (in the Downtown Zoning Code) that this height might end up 3 stories, and in the future it might be too low. She also notes the dimensions of the parking deck as being a 2 bay deck with a sloped ramp and a liner building. Also, a question on the monument signs to staff. She states that normally we allow a sign on the building and one monument sign, and believe that they have signs on their building now, and can staff explain what the church has and what they are proposing.

Mr. Pate stated that he did not know how many signs they had on the existing buildings, the church might be able to answer that.

Commissioner Anthes stated that there is one on the drive-thru canopy where the proposed monument sign is shown.

Mr. Pate agreed, but monument signs are in a separate category.

Commissioner Anthes asked normally don't we issue one monument sign per commercial

Planning Commission
November 28, 2005
Page 8
business?

Mr. Pate cited the ordinance of the monument and wall signs. He noted that 1 wall sign per wall face for each business is allowed.

Commissioner Anthes stated we need to keep everything uniform for the surrounding area, which would almost disallow the second monument for that reason. She stated that the building area shown is a maximum 60% coverage, assuming it is covered in current ordinances. How does that compare to what we are looking for on Downtown Development? She believes the Downtown Master Plan requires more coverage than this.

Mr. Pate stated that was correct.

Commissioner Anthes stated that in approving this proposal, it will be for less coverage than what is stated in the Downtown Master Plan and expected development for the future. She stated that she would like staff to look into this open ended phasing that seems very long. Normally there is some kind of expiration date on a PZD and we can come along and check on it. With this Master Development Plan, is there some where down the line, will we be able to re-look at this.

Mr. Pate noted the normal PZD expiration date of one year. In zoning, there is no expiration date. That is where we look at bulk and area, etc. Due to the zoning request, we felt it was appropriate to allow that time. He also stated that when the development comes back thru it would be subject to development regulations in place at that time. This allows the zoning to be put in place. This is unique since it is a smaller parcel, but they have a long term plan on that parcel. With a Master Plan allowing some flexibility, an applicant doesn't have to come back to the Planning Commission or City Council every time they need to develop something else on their property. He stated that the ordinance allows the flexibility for the applicant to propose something, and if it is not something reasonable to the council, they have a say in the matter. He stated that the 20 year mark did initially concern staff but staff believes the development regulations at that time would be enforced. This is not an over-all development approval on this proposal, but a template with flexibility with the applicant and with the Planning Commission and City Council. The applicant may move things around a bit, but the applicant should be aware that regulations would be in place and enforced at that time.

Commissioner Anthes stated that if this was a straight rezoning, not a template with a drawing, it would be easier to understand at this point. She stated the conflict is in the details in the booklet and the drawings, which is the template of the zoning.

Mr. Pate stated that the zoning regulations in the booklet proposed by the applicant are crucial. The width of the parking deck is not what we are reviewing at this time, but at the time of development, we would. He stated a couple of other regulations they would look at as an example.

Planning Commission
November 28, 2005
Page 9

Commissioner Anthes asked about height.

Mr. Pate stated it was important to look at height at this time. They are establishing a maximum height; that is part of the regulations of zoning which is why it is needed to be called out. He stated again that this is not a development approval of what is proposed, but the Planning Commission as a body would now or in the future look at proposals with what ordinances and regulations are existing at that time.

Commissioner Anthes stated she wanted to keep her comments short but is concerned about the heights - 2 story structures and a 3 story parking garage being proposed in the future. She stated with the specific conditions proposed, she would like to recommend a motion to amend the approvals as follows: Condition of approval 2 to allow one monument sign, condition of approval 9 to add "development on the property shall be in compliance with ordinances that are in effect at the time of submittal including, but not limited to, the downtown zoning code"; and an additional condition should be added stating "prior to City Council, the project booklet should be revised with the following provisions: the booklet shall be revised to include page numbers, remove all references to the parking structure and liner building in compliance with what the Commissioner said earlier."

Commissioner Ostner motioned to amend the proposal.

Commissioner Myers seconded the motion.

Commissioner Vaught stated he would support that amendment, but not all of it. He stated he did not have a problem with the second monument sign, and had a question on the Downtown Master Plan on how it would effect future development of this project, due to the amendments requested.

Mr. Pate stated he was not sure how the Downtown Zoning Code will be passed, that there will be some conflicts with some of the properties that are not developed yet. He stated an example that someone wanting to develop a 1-story development will have to develop a 3 story building. If the conditions are included as stated, he believed they would have to comply with the future Downtown Zoning Code, since it is included in that zoning boundary.

Commissioner Vaught stated if they do not put that condition in, the applicant is subject to bulk and area requirements that we are passing tonight, correct?

Mr. Pate stated only for the zoning.

Commissioner Vaught expressed concern regarding the conflict between this Planned Zoning District proposal and future zoning actions on the property with the Downtown Zoning Code.

Planning Commission

November 28, 2005

Page 10

Mr. Pate stated if property is zoned right now from C-3 to C-4 and then the Downtown Zoning Code, which is a zoning ordinance, is passed, it will affect the zoning of this property from what it was. This is not the only property to address.

Commissioner Vaught stated he does not support the amendment, and will vote against it. Striking the parking deck is a wise choice, but the other two he does not agree with.

Mr. Williams stated he would recommend the Planning Commission to totally strike condition 2 with signage, it is really not up the Planning Commission to determine signage. The City Council has passed a resolution regarding signage. He stated the resolution and explains why the City Council and Planning Commission should not be involved with the signage. It is up to the Sign Administrator to handle that part.

Commissioner Anthes stated doesn't the sign administrator deal with zoning districts and the rules for those zoning districts.

Clarification on how signage is to be administered within a PZD ensued. It was determined that signage must follow established zoning districts within Ch. 174 Signs.

Commissioner Anthes recommended to amend the condition of approval 2, based on these clarifications.

Commissioner Ostner re-stated Commissioner Anthes' recommendation to amend condition of approval 2 and conditional approval 9, and also add conditions for the applicant which would include the page numbers in the booklet and remove phase 5 which was the parking deck.

Commissioner Anthes re-stated the verbiage of condition of approval number 9.

Commissioner Vaught stated the Downtown Zoning Code is a zoning change and is not an ordinance to be held to currently, since it has not been passed. We are setting zoning for this property, including the building heights, tonight.

Commissioner Ostner stated since if this zoning change happens in 2005, and most of the downtown was zoned in the 1970s, the fact that it is recent makes no difference. If the Downtown Zoning Code is applied, it will be a blanket rezone regardless how long a zoning has been in place.

Commissioner Ostner discussed with Commissioner Vaught and Mr. Williams on the differences of what is in compliance now versus what will happen when the Downtown Zoning Code gets approved.

Commissioner Graves stated it seems wrong to ask applicants to bring a PZD forward with a level of certainty of what it is going to look like, and for this body to turn around and say that we

Planning Commission
November 28, 2005

Page 11

are going to require you to comply with some unknown zoning ordinance in the future.

Commissioner Ostner stated that there is motion to alter these conditions and vote on that.

Commissioner Graves stated that he had a problem with the verbiage stated.

Commissioner Vaught stated that he had a problem with the verbiage stated and would like to leave it out.

Commissioner Allen stated we should look at what is put before us, we do not have a Downtown Zoning Code at this time, and some common sense just needs to be used.

Commissioner Allen moved for an immediate vote.

Commissioner Ostner asked if anyone was opposed to an immediate vote.

Commissioner Clark stated yes, she would like to split the amendments. She stated that she would like to vote on Commissioner Anthes' proposals one at a time.

Commissioner Ostner asked if there were any further comment on these changes, before they vote. No comments were made.

Commissioner Ostner stated that the motioner has requested to remove condition 2 completely, amend condition 9 with a statement "development on the property shall be in compliance with ordinances that are in effect at the time of submittal including, but not limited to, the downtown zoning code," the applicant will add page numbers to the booklet, and the applicant would remove Phase 5 parking deck from this proposal. He stated that we are only voting to change these conditions.

Commissioner Ostner requested roll call on the amendments requested. The amendments were approved by a vote of 5-4-0.

Commissioner Myers motioned to approve the forwarding of C-PZD 05-1704 to City Council with the amendments.

Commissioner Clark seconds the motion.

Roll Call: Upon the completion of roll call the motion to recommend approval of C-PZD 05-1704 to the City Council was approved by a vote of 8-1-0, with Commissioner Anthes voting no.

Planning Commission
November 28, 2005
Page 12

ANX 05-1811 Summer Resources

Commissioner Ostner: The next item is ANX 05-1811 for Summer Resources.

Mr. Pate read the staff report. This property is approximately 3.75 acres, located east of the Waterbrook Phase 1 and 2 Subdivision that is north of Huntsville Road. The Planning Commission recently approved two phases of Waterbrook Subdivision. Phase one, which fronts Huntsville Road and Phase 2, which is to the north of that, surrounds a large, previously excavated pit. Parks and Recreation board voted to take parkland for this development. However, land that was agreed upon was in the county and adjacent to the site. Part of the conditions for approval for the preliminary plat, prior to acceptance of that land the property had to be annexed into the city. The park requirements for the current phases of Waterbrook Subdivision require 2.75 acres. The remaining approximately 1 acre would be utilized for potential tree preservation mitigation, which was also brought to the Planning Commission's attention at that time. Staff is recommending approval of this item. In recommending this approval to the City Council, staff finds that the request does meet the intent and is in compliance with our guiding Policies of the General Plan 2020.

Mr. Mel Milholland, with Milholland Engineering, representative for the applicant, spoke briefly, concurring with all the comments that staff made. This Waterbrook preliminary plat has been approved by you, as a tract split. This tract of land was in the county at the time the Preliminary Plat was approved by you and the county. He would like to make the request of annexation approval to be forwarded to the City Council.

Commissioner Ostner opened the floor to public comment. There was no public comment.

Commissioner Anthes made a motion to forward ANX 05-1811 to the City Council.

Commissioner Trumbo seconded the motion.

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 05-1811 to the City Council was approved by a vote of 9-0-0.

Planning Commission
November 28, 2005
Page 13

R-PZD 05-1798 DePalma Addition

Commissioner Ostner : The next item is R-PZD 05-1798 for DePalma Addition.

Mr. Pate read the staff report. This site you have seen before, as part of the Biella Subdivision that is located off of Hwy 265. At that time, 10 acres of this piece of the property was indicated to be brought back to you as a Planned Zoning District. The applicant is requesting a Master Development Planned Zoning District to contain 5 single family lots and a private drive. The current zoning allows 4 units per acre, resulting in a maximum of 40 units on this site. This proposal is a significant down-zoning on the property and a more appropriate use of this property that has significant terrain and tree canopy. The property has access with right-of-way from Ansen Street. As part of the conditions of approval for this Master Development Plan, the applicant shall show proof of access to the site off of the Ansen Street cul-de-sac, to ensure that all access easements are in place from all property owners in that area, prior to the Planning Commission's approval of a preliminary plat to actually subdivide this property. This action tonight would not subdivide the property, but would simply have the applicant gain entitlement and zoning rights. The project booklet is much different then the last Planned Zoning District. It is a much smaller development, with not as many issues to discuss. Staff finds that the proposal is compatible with the surrounding development, which is relatively low density, and that it is consistent with the land use plan. The low density, large-lot requirements combined with compliance with the tree preservation ordinance would help reduce grading and development on the steep hillside, more so than allowed with current zoning. The planning project booklet has been submitted recognizing zoning and development criteria requirements of the Master Development Plan approval process. With those findings and others included in your staff report, staff is recommending this to be forwarded to the City Council for consideration, with 9 conditions of approval addressing the access into this property, Planning Commission determination of a waiver request to reduce the required 22 foot wide pavement section to 20 feet is also included. Staff is recommending approval of this waiver, finding low density of traffic generated by the 5 lots and lack of connectivity to the streets in the area. Street construction would have to meet Fayetteville city standards.

Mr. Tom Hennelly with H2 Engineering represented Mr. Oates, the property owner. He stated that he had no problems with the conditions of approval stated. There are 50 foot setbacks all around the properties with these 5 lots, and works well on the mountain.

Commissioner Ostner opened the floor to public comment.

Sue Cauldren, a resident of Ansen Street, stated that she had a couple of questions to ask the board, but would like to say that she was very happy about how this 10 acres of land was going to be used. Two acre lots with 5 houses and a private drive saves the density of the beautiful area. Her fear is that in the future, if the DePalma family heirs decide to not build and sell it to a developer, with the current zoning, can they put 40 homes on this piece of property? Also, if this

Planning Commission

November 28, 2005

Page 14

is passed, would there be any kind of restrictions put on this property, so it would not happen? And we do not lose the density we are trying to preserve? I also represent my next-door neighbor, Carolyn Ferrel, who is ill, and could not come tonight. Her property is right next to this 10 acre strip of land. She has a structure directly behind her house, which is used for an art gallery and guest home. But it seems the private drive will be directly under her nose. I haven't seen any maps, but I don't know if that second structure is on them or where the property line is. So, my second question would be a sign of goodwill, if this private drive be screened or moved further down the property. If it is built up and straight, it would destroy her property, view, etc. I don't know what the setbacks are for a private drive, does it follow the property line or follow certain requirements?

Commissioner Ostner stated that this street does touch her cul-de-sac, then it goes off at an angle, and makes a pretty big triangle away from her property line.

Mrs. Cauldren was offered a copy of the maps, showing how the private drives are set up.

Commissioner Ostner also stated that he would address her first question.

Mrs. Cauldren stated she had a last question, that 9 conditions of approvals were mentioned and would like to hear them read, since she did not know what they were.

Commissioner Ostner stated that he would get her a copy of them before she leaves. He also asked for any other public comments, before he addressed her first question. There were no more public comments, he closed the public comment portion and brought it back to the Commission.

Commissioner Ostner stated that on Mrs. Cauldren's concerns, that since this is a Residential Planned Zoning District, the zoning will have to follow this drawing. And if the land was sold to another developer, they would have to come back to us for another rezoning to change this drawing.

Mrs. Cauldren asked if the approval would be for this zoning only then?

Commissioner Ostner stated yes, that there was no way they could squeeze 40 homes past you all. They would have to go through this whole process again. On the issue with Mrs. Ferrel, he believed this layout gives as much room as possible. If the road kept continuing straight, then it would go further away from her property, but it does create a buffer triangle. Commissioner Ostner questioned the applicant, "Is that triangle a build-able lot?"

Mr. Hennelly stated he wanted to answer Mrs. Cauldren's first question. Mr. Hennelly stated he would like everyone to know that this PZD would be good in perpetuity, this is as good as forever, however long Mr. Oates takes to develop this. So he would like to assure the neighbors that they don't have anything to worry about. Regarding the triangle created by the access drive

Planning Commission

November 28, 2005

Page 15

splitting lot number 1 in half, he did angle it down. There is a very small portion of property, that could have a small storage shed built on it, next to the drive. This has 50 foot set backs on the front, side, and rear. He would not anticipate this happening, the majority of the property is west of that drive, and he would anticipate that triangle would be wooded. It is in the conditions that the trees could not be cut down without urban forester approval. This would give a 50-foot screening from Mr. and Mrs. Ferrel's house to the drive. He does not imagine a great impact on their art gallery or home.

Commissioner Vaught stated he had a question about the road. It is off on a pretty sharp angle off the cul-de-sac. Does that meet all our requirements, it looks like a very steep slope.

Mr. Pate states that it is just a drawing on paper now, and staff would have to review that as part of the development guidelines with the preliminary plans.

Commissioner Allen made a motion to forward R-PZD 05-1798 to the City Council with the 9 conditions stated to the City Council.

Commissioner Lack seconded the motion.

Commissioner Ostner asked if there were any further discussion?

Commissioner Anthes stated she had a few questions, looking at the Master Development Plan submitted, and would like clarification on the staff report on page 5. The question is, on the large setbacks of 50 ft, can you explain the difference from the project you submitted earlier (Falling Waters,) trying to keep setbacks tight with the street to minimize the tree removal and what the strategy is with the large building setback and amount of tree removal?

Mr. Hennelly stated in the cross reference to the proposed Falling Water PZD, primarily there were houses on both sides of the street, and they were serviced by gravity sewer. It was good to get them up to the street, because of the amount of grading that would take place. With the way we have the drive, there is not as much grading needed. We tried to buffer with 100 feet of wooded area between each house, and 50 feet of wooded area between the existing homes. Also with the density of the wooded area, Falling Waters had 1/2 acre lots versus two acre lots here. It was also good to get those homes closer to the street. As it is, for these homes, they will have low pressure sewer, if we can get engineering to sign off on it. Plus it is not cost effective to bring a gravity sewer line up thru the Sequoyah Reserve to service 5 houses. We weren't faced with a lot of those same challenges.

Commissioner Anthes asked on the development plan, that the houses are required a 3500 sq ft minimum floor plan with no height restriction?

Mr. Hennelly stated yes.

Planning Commission

November 28, 2005

Page 16

Commissioner Anthes asked if staff can recommend a 3500 sq ft house with no height restriction on a hillside?

Mr. Pate state that there are currently no height restrictions at all with the zoning district that it is located in now. As a benchmark, when staff reviews the development with no height restriction now, we saw no reason to impose one arbitrarily.

Commissioner Anthes asked when development occurs on this property, would they be subject to the ordinances and height restrictions at that time.

Mr. Pate stated that is correct.

Commissioner Anthes stated next question, the development plan stated 18 foot streets, the fire department is talking about 20. Do you agree with that?

Mr. Hennelly stated yes, they did. Twenty feet is fine, we adjusted the plat accordingly. We initially had it at 18 feet, but after we talked with the Fire Marshal, we changed it.

Commissioner Anthes stated that the Master Development Plan states that there will be no sidewalks or street lights in this development?

Mr. Hennelly stated yes.

Commissioner Anthes asked staff about their comments on that.

Mr. Pate stated that with 5 lots and a private street, the street will probably function very well for pedestrian and vehicular movement, especially with no connectivity to the east, south, or any direction. There are also no other sidewalks in this area currently built, and it is unlikely the public would venture down a private street.

Commissioner Anthes stated she would agree with Mr. Pate on the sidewalks, but would disagree on the usage of the street area. People would use it to get to the park dedication area and wonders about the street lights being beneficial.

Mr. Hennelly stated that they would normally be opposed to the additional street lights, but due to the secluded area on a hillside, we could get with staff and come up with individual gas lanterns or something of that nature, with lower illumination. We can make that a private light and a requirement in the covenant, that each one of the lots have one of those.

Commissioner Anthes stated that would be nice. A low light for the pedestrians and a safety factor.

Mr. Hennelly stated that something like that could be worked into the project.

Planning Commission
November 28, 2005
Page 17

Commissioner Anthes stated that her other question would be the nine minute response time, that the Fayetteville fire department has written us a letter, indicating a nine minute response time with no likelihood of changing, because of the steepness of the existing streets and narrow winding road into the development. The question is, with that response time, what is the wisdom of granting condition number 2, which involves a waiver request for a dead end private street longer than 500 ft in length? Would the Commissioners like to comment on that issue?

Commissioner Clark states that she was concerned about the letter from the Fire Marshall, but remember that this was status quo for the streets in that area, so not to make the situation worse, the response time is normal up to this property. She believes insurance will be a bear, but that is down the road. A question was directed to Mr. Pate, when do you say "No" on the lack of response time or even with police response time? Not in this particular development, but any development, or situation.

Mr. Pate stated you have to always keep in mind that response time is not the only factor to consider. In the annexation policy there are 20 guiding criteria, with rezoning there are 5 or 6. When the staff, the Planning Commission or City Council reviews the requests, and believes it is not in the interest of public safety, that is when it is not recommended. He describes the fundamentals of the zoning review process.

Commissioner Clark stated that this is concerning, that we have areas existing in town that will burn down before we get there. She is not particularly troubled about this development, it is not making it worse, but I hope there is never a fire.

Mr. Pate stated that the Planning Commission should get the minutes from the last City Council meeting, that the Fire Chief made some great responses regarding the same issue. He noted some of the issues that were discussed at the Council meeting. He also stated that this rezoning request actually decreases some of the issues on response time, due to the decrease in number of homes allowed.

Commissioner Clark stated that we can look at emergency access when we look at the preliminary plat at that time.

Mr. Hennelly stated that was the point he wanted to make. With Biella, there was an emergency access established. At this time, we are working on an emergency access for this development and it will be in place, and reduce the response time, considerably.

Commissioner Allen stated that she is part of the Neilson family that watches the government channel, and watched that particular City Council meeting, and found that very confusing. She requested Mr. Pate to contact Fire Chief Johnson and see about coming in before one of their meetings and discuss with them some of the issues they are having.

Planning Commission
November 28, 2005
Page 18

Commission Graves states that the fire department can not take into consideration the stations that are not built yet, or the underdeveloped roads in these developments. He stated other assumed issues that the fire department has to take into consideration on making these response times.

Commissioner Lack stated that the decreased density and change of zoning were appealing. Also, he would like to ask a question about one of the use units. Units 1 and 8 are permitted uses, 24 is a conditional use; use unit 24 is listed in the permitted uses category, instead of the conditional uses?

Mr. Pate stated that the first is correct, and how the other conditions are stated as revisions.

Commissioner Clark called for a vote.

Commissioner Ostner asked if anyone is against the call of the vote. None opposed.

Roll Call: Upon the completion of roll call the motion to recommend approval of R-PZD 05-1798 to the City Council was approved by a vote of 9-0-0.

DRAFT

Planning Commission
November 28, 2005
Page 19

R-PZD 05-1734 for Paradise Point

Commissioner Ostner: The next item is R-PZD 05-1734 for Paradise Point

Ms. Morgan read the staff report. This is a detailed Planned Zoning District Master Development Plan, an application requesting approval for not only the zoning for this property, but also the development approval for a large scale development. The property contains approximately 1.55 acres and is located west of Crossover and south of Joyce Boulevard. The applicant requests a mixed-use development, which will incorporate 12 residential units and 12,065 sf. of retail/office space. The retail/office space is located on the first floor of the development as well as one residential unit. There will be 11 residential units on the second floor. Page 2 on the staff report indicates the permitted and conditional uses as proposed by the applicant. Density on the property currently would allow the development of 24 units per acre; the applicant requests 7.7 units per acre. Setback requirements are a little different than the RMF-24 and C-2 requirements. Fifty-foot front setbacks and three-foot setbacks on the side and rear are proposed. A maximum 35 ft in height and a total building area of 20% is proposed. Access is one of the issues we discussed with this development. Proposed is one access onto Crossover Road and a northern access through the property to the north, through an existing parking lot. At the time of the report, the applicant was coordinating with the property owners to the north for approval for an access easement, which will allow them access onto that property. If those agreements and easements are not obtained by the time building permits are being reviewed, this application would have to come back to the Planning Commission for review to determine whether a single access onto Crossover Road will constitute safe means of access to this development. With regard to tree preservation, there is an existing 23% canopy on the property and the applicant proposes to preserve 13% of that canopy. With the proposal, mitigation would be required by either planting on-site or contributing money in lieu. Staff is recommending forwarding this Master Development Plan Planned Zoning District to the City Council for approval with a total of 26 conditions of which are included several determinations, including Planning Commission determination of street improvements. Staff recommends construction of a 6 foot sidewalk along Crossover Road. This portion of Crossover and Hwy 265 is not yet improved and is slated to be improved in the future. Therefore we are not recommending any other improvements than sidewalks at this time. Condition 2 of the Planning Commission determination addresses commercial design standards. The applicant has brought a board representing the proposed elevations as well as a material sample board. Staff finds the proposed elevations are in compliance with commercial design standards. Subdivision committee found in favor of the elevations and support of the modifications of the western facade. Condition 3 regards the determination of safety access discussed. Condition number 5 discusses the approval from any adjoining property owners if grading is proposed 5 feet from the adjoining property line. Typical developments of this nature do not have to address that situation, but as the applicant is proposing to build this structure 3 feet from the property line, it would certainly need to be addressed. In addition to that, there are some offsite easements that will be required. There is an existing easement on the property that will need to be vacated prior

Planning Commission

November 28, 2005

Page 20

to the issuing of building permits. With regard to signs, the applicant proposes all signs in accordance with ordinances, and staff would request a modification to condition 14, to allow Use Unit 17, Trade and Services, as a permitted use, proposed by the developer. With regard to phasing, they would typically have one year, and after that one year, a one-year extension on the timing of their permits. The applicant is requesting five years from City Council approval for all issues of permits for this development. They anticipate breaking ground soon.

Mr. Jeremy Thompson with H2 Engineering represented the applicant. He stated the location and advised that there are two lots with an irregular shape. The architects worked hard to put together this structure to work with the current dimensions. It's a two-story structure proposing office retail space on the bottom floor with one residential unit. The second-story contains residential units only. We are in agreement with staff comments. On condition number two, we would like to give an update. Utility easements are in the process of being acquired to the south and west side of the property. We also have verbal agreement on the transfer of that easement but have not obtained signatures. Also, on the access easement to the north: the plans show access on the east side of the existing building and the property owners are asking us to move it to the west side of their structure. You will notice a parking area on the west side - we are proposing to extend that directly north. This will actually connect perfectly with an existing access off of Joyce Street. That is the direction that easement is going now. If you have any questions, please feel free to ask, and the architect is here and can answer any questions you have on the structure.

Commissioner Ostner opened the floor to public comment. There was no public comment.

Commissioner Vaught asked staff if this is a Master Development Plan?

Mr. Pate states it is also development-related. Building permits can be issued after City Council approval. He also explained the differences to Commissioner Vaught and advised that staff will always explain which type of application is before the Planning Commission.

Commissioner Vaught noted the differences on the last PZD verses this one.

Commissioner Anthes stated she has two questions. The first is directed to Mr. Kit Williams. Use Unit 17 is requested as a permitted use; is it more appropriate as a conditional use within this zone?

Mr. Williams stated he didn't believe it was required to use all the use units that the applicant requests. You can use your own judgement on that, just like the City Council can. You can also make some permitted or conditional; just like our normal zoning districts do. I don't think you are bound to what they are requesting, even though staff is recommending it now and not intentionally leaving it out.

Mr. Pate stated that is correct and the biggest reason for that is often times on Unit Use 17 there

Planning Commission
November 28, 2005

Page 21

are higher intensity uses and one doesn't know the development pattern that will occur. But in this development, we do know where everything is going. There is no question on what is going to be built, we know the footprints, parking space, etc.

Commissioner Anthes asked that if the building configuration would not lend itself to the other uses anyway, then you are not concerned?

Mr. Pate stated that is correct.

Commissioner Anthes stated another issue she would like to discuss is the condition of approval for phasing. That is the required permits of the 5 years being requested. She states she doesn't see any circumstances for this approval. This development is actually smaller than a lot of large scale developments. She would be more inclined to follow the same pattern on this issue, and revise that to a one year approval.

Commissioner Vaught stated that he would like to ask the applicant why they requested the 5 year extension.

Mr. Thompson stated that the owner's intent is to after approval start construction of this project. In the new PZD process, we are allowed to develop a time frame, and to provide the owner with a little extra time, we proposed 5 years. He states he would be willing to back down to 2 to 3 years, since it is allowed in the new PZD and there is some consideration on the Planning Commission's part.

Commissioner Anthes asked Mr. Thompson how this development is any different than any of the other developments or plans coming through under a year?

Mr. Thompson stated that he didn't think that the development was any different than the others but refers to Jeremy Pate on the new PZD that allows the time frame. Since it is allowed, we proposed that.

Commissioner Clark stated that it is odd that it is one phase, one building and it will take 5 years to build it.

Commissioner Trumbo motioned to amend the time requested to 2 years.

Commissioner Myers seconded the motion.

Commissioner Ostner stated the motion is to amend condition number 17 to read 2 years to gain their required permits. He asked if there were further discussion on this. There were no more further comments.

Roll was called, and the amendment to condition number 17 was approved by a vote of 8-1-0

Planning Commission
November 28, 2005
Page 22
with Commissioner Anthes opposing.

Commissioner Clark motioned to forward R-PZD 05-1734 to the City Council with stated conditions, as amended.

Commissioner Myers seconded the motion.

Mr. Pate mentioned that the stub out access shown on the east side on the plat and to be aware of the discussion to move it to the west side.

Commissioner Ostner asked if there was any further discussion.

Roll Call: Upon the completion of roll call the motion to recommend approval of R-PZD 05-1734 to the City Council was approved by a vote of 9-0-0.

DRAFT

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

MDP R-PZD 05-1734: (Paradise Point, 177): Submitted by H2 Engineering, Inc. for property located west of Crossover, south of Joyce Boulevard. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre, and contains approximately 1.55 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District with 12,065 s.f. of retail space, 12 residential units, and 55 parking spaces.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12-2-05
Department Director Date

[Signature] 12-2-05
City Attorney Date

[Signature] 12-5-05
Finance and Internal Service Director Date

[Signature] 12/6/05
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 12/2/05

Received in Mayor's Office
ENTERED 12/2/05

Comments:

Left on the Second Reading 12/20/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: December 01, 2005

Subject: Residential Planned Zoning District for Paradise Point (R-PZD 05-1734)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Paradise Point, based on the Master Development Plan, development standards, statement of commitments, and detailed large scale development plans submitted. This action will establish a unique zoning district for a multi-use project on approximately 1.55 acres located east of Crossover Road (Hwy 265) and south of Joyce Boulevard.

BACKGROUND

The subject property consists of approximately 1.55 acres located west of Crossover Road and the UAMS Campus. It is currently zoned RMF-24 and surrounded by a golf course to the west and south.

The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. The proposed, self-described "New Orleans" style building will be two stories with 11 residential units on the second floor and one residential unit with 12,065 square feet of retail/office retail space on the first floor.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on November 28, 2005. A Planned Zoning District requires City Council approval as it includes zoning, land use, and development approval. Recommended conditions were amended and approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1734, PARADISE POINT, LOCATED WEST OF CROSSOVER, SOUTH OF JOYCE BOULEVARD, CONTAINING APPROXIMATELY 1.55 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RMF-24, Residential Multi-Family, 24 units per acre, to R-PZD 05-1734 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP R-PZD 05-1734

LOTS 1 AND 2 OF FINAL PLAT OF SEXTON POINT, PLAT RECORD 13-23, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1
THENCE N02°25'36"E 184.24 FEET;
THENCE S88°07'29"E 10.49 FEET;
THENCE N02°11'58"E 4.23 FEET;
THENCE S87°38'29"E 55.34 FEET;
THENCE S23°38'06"E 99.87 FEET;
THENCE S86°00'07"E 248.30 FEET TO THE WEST RIGHT-OF-WAY OF ARKANSAS HIGHWAY 265;
THENCE ALONG SAID WEST RIGHT-OF-WAY THE FOLLOWING THREE COURSES: THENCE 134.67 FEET ALONG A CURVE TO THE RIGHT HAVING A 914.93 FOOT RADIUS AND A S10°53'03"W 134.55 FOOT CHORD;
THENCE S15°14'01"W 122.74 FEET;
THENCE 45.11 FEET ALONG A CURVE TO THE LEFT HAVING A 1175.73 FOOT RADIUS AND A S13°38'43"W 45.10 FOOT CHORD;
THENCE LEAVING SAID WEST RIGHT-OF-WAY N86°33'20"W 40.99 FEET;
THENCE N28°47'51"W 234.05 FEET;
THENCE N85°55'23"W 139.87 FEET TO THE POINT OF BEGINNING, CONTAINING 1.55 ACRES, MORE OR LESS.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2005 *Updated December 2, 2005*

R-PZD 05-1734: Planned Zoning District (PARADISE POINT, 177): Submitted by H2 ENGINEERING, INC. for property located at W OF CROSSOVER, S OF JOYCE BLVD. The property is zoned RMF-24, Residential Multi-Family – 24 units per acre, and contains approximately 1.55 acres. The request is to approve a Residential Planned Zoning District with 12,065 s.f. of retail space, 12 residential units (24 bedrooms) and 55 parking spaces proposed.
Property Owner: KIRK ELSASS Planner: SUZANNE MORGAN

Findings:

Property Description: The subject property consists of approximately 1.55 acres located west of Crossover Road and the UAMS Campus. It is currently zoned RMF-24 and surrounded by a golf course to the west and south.

Proposal: The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. The proposed New Orleans style building will be two stories with 11 residential units on the second floor and one residential unit with 12,065 square feet of retail/office retail space on the first floor.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	UAMS Campus	R-O, C-1
South	Golf Course	RMF-24
East	Vacant	R-O
West	Golf Course	RMF-24

The following bulk and area regulations are proposed by the applicant:

(A) Proposed Uses.

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 5	Government Facilities
Use Unit 12	Offices, studios, and related services
Use Unit 15	Neighborhood Shopping Goods
Use Unit 16	Shopping Goods
Use Unit 17	Trades and Services
Use Unit 24	Home occupations
Use Unit 25	Professional Offices
Use Unit 26	Multi-family Dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Use Unit 13	Eating Places
Use Unit 36	Wireless Communication Facilities

(B) Density.

Units per acre	7.7
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(C) Bulk and area regulations.

Lot minimum width	40 feet
Lot area minimum	1.55 acres
Land area per dwelling unit	5,625 square feet maximum

(E) Setback requirements.

Front Building Setbacks: 50'.

Rear Building Setback: 3'

Side Building Setback: 3'

(F) Height. 35' maximum height

(G) Building area. 19.9% of site.

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: The applicant has proposed access to the development from Hwy 265 and an access easement through the U of A Medical Sciences campus to the north. At this time, the applicant

has not received approval of the proposed access to the north. Staff recommends that should this access easement not be obtained by the developer prior to building permit consideration, that the project be reconsidered by the Planning Commission to determine if with one access to Crossover Road/Hwy 265 that safe and adequate means for traffic is provided.

Adjacent Master Street Plan Streets: Hwy 265 (Crossover Road) – Principal Arterial

Street Improvements: Staff recommends street improvements on Hwy 265 to include the construction of a sidewalk.

Parks: Park fees are due for 12 multi-family dwellings.

Tree Preservation: Existing: 23%
Preserved: 13%
Required: 23%

Mitigation will be required to replace 6014 square feet of canopy. The applicant has chosen to do a combination of on-site planting and a deposit into the Tree Escrow Account.

Recommendation: Staff recommends forwarding the Master Development Plan – Planned Zoning District for Paradise Point (R-PZD 05-1734), to the City Council for approval with the following conditions:

The Planning Commission voted 8-1-0 to approve an amendment to Condition #17 with Commissioner Anthes voting no.

The Planning Commission voted 9-0-0 for approval of the rezoning and development approval with the following amended conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends construction of a 6' sidewalk along Hwy 265, adjacent to the Master Street Plan right-of-way.*
2. Planning Commission determination of commercial design standards. *Staff finds that the proposed elevations are compliant with Commercial Design Standards and the intent of the architectural design criteria listed within the Master Development Plan Project Booklet.*
The Subdivision Committee found in favor of the proposed elevations and supported the modification of the building material of the western elevation from brick to siding.

The Planning Commission voted to approve the commercial design standards.

3. Planning Commission determination of safe and adequate access to the subject property. *The applicant has proposed access to the development from Hwy 265 and an access easement through the U of A Medical Sciences campus to the north. At this time, the applicant has not received approval of the proposed access to the north. Staff recommends that should the applicant not obtain a perpetual access easement to the property to the north prior to the issuance of a building permit, the application shall be resubmitted to the Planning Commission for evaluation of safe and adequate means of access and traffic patterns.*

The Planning Commission recommended approval with a second access and the allowance for this second access to the north to be moved west of where currently proposed. The plat has been revised to show a secondary access to the north along the western property line. The addition of parking has also been shown as part of the proposed access to serve the property to the north. Prior to construction of this parking area all necessary permits for construction shall be obtained.

4. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
5. If grading within 5' feet of any property line, the applicant shall obtain written approval from the adjacent property owner.
6. The applicant shall submit a lighting plan and cut sheets which meet City ordinance requirements to the Planning Division for review at the time of building permit.
7. Dedication of right-of-way for Hwy 265 by warranty deed prior to issuance of a building permit.
8. The off-site utility easement to the south of the property and access easement to north shall be obtained by separate document prior to issuance of a building permit.
9. The existing utility easement on the property that is within the proposed building footprint shall be vacated prior to the issuance of a building permit.
10. Parking requirements shall be met at all times. The required parking numbers may increase should one or more tenant spaces be modified to a use that requires more parking than retail.
11. Parks fees for 12 multi-Family Units are due in the amount of \$4,716 prior to issuance of a building permit.
12. The applicant shall mitigate for the removal of tree canopy by planting 17 trees, contributing \$4,250, or a combination thereof. Species and location of mitigation trees

shall be approved by the Urban Forester.

13. Signs shall be permitted in accordance with the R-O, Residential Office, zoning district regulations.
14. Permitted uses within this R-PZD shall be restricted to Use Unit 1: City-wide Uses by right; Use Unit 5: Government Facilities; Use Unit 12: Offices, studios, and related services; Use Unit 15: Neighborhood Shopping Goods; Use Unit 16: Shopping Goods; *Use Unit 17: Trades and Services*; Use Unit 24: Home Occupations; Use Unit 25: Professional Offices; and Use Unit 26: Multi-family Dwellings.
15. Conditional uses within this R-PZD shall be restricted to Use Unit 2: City wide Uses by Conditional Use; Use Unit 13: Eating Places; and Use Unit 36: Wireless Communication Facilities.
16. The applicant shall address all comments on the attached Landscape Plan Review and Tree Preservation Review, which shall be considered as part of the official conditions of approval.
17. The project shall be constructed in one phase. All required permits to construct the proposed development shall be issued within ~~5~~ 2 (*two*) years of City Council approval.

Standard Conditions of Approval:

18. Street lights shall be installed with a maximum separation of 300 feet along Hwy 265 (Crossover Road).
19. Three bike racks shall be installed on the property within 50' of the entrance and in accordance with the requirements of Ch. 172.10 of the Unified Development Code and clearly identified on the site plan for building permit review.
20. Trash enclosures shall be screened on a minimum of three (3) sides with materials that are complimentary to and compatible with the proposed building. Elevations of the enclosure shall be submitted for review at the time of building permit application. Access to the enclosure shall not be visible from the street, pursuant to city ordinance.
21. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure.
22. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
23. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat

review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

24. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
25. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

The applicant has made the requested modifications to the plat and the project booklet.

Additional Conditions:

Planning Commission Action:

☐ Approval

☐ Forwarded to P.C.

Meeting Date: November 28, 2005

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____

Date _____

Findings associated with R-PZD 05-1734

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for the development of vacant property located west of Crossover Road, south of Joyce Boulevard.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions with some minor corrections required.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development may require the provision of public facilities, at the cost of the developer. Fire and emergency response time is adequate, as indicated in the attached correspondence.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, creates a mixed use development that will provide a suitable transition between commercial and office developments to the north and residential properties to the south. Although the immediate property to the south, east, and west are not developed at this time, the Future Land Use Plan designates these areas for private open space and residential development. Staff finds that the proposed use is compatible with these commercial and residential uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is currently vacant property suitable for development of residential and commercial use.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: As the property is currently vacant and yields no traffic, the proposed development would result in an increase in the traffic on the surrounding streets. These streets (Crossover Road/Hwy 265 and Joyce Boulevard) are, however, designated as Principal Arterial streets intended to carry large volumes of traffic.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural elevations of the proposed development and architectural standards have been proposed. Staff finds that the elevations proposed adhere to the standards set forth and are compatible with the surrounding developments.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District and development plans have been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. These criteria have been incorporated into the proposed development plans.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and

landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is typically required between commercial and residential developments. None of the adjacent properties are used for residential purposes. However, the applicant proposes a 12' landscape buffer with trees planted 1 per 30' along the north property line.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The applicant proposes one access onto Crossover Road/Hwy 265 and one access into AHEC to the north. Approval from the adjoining property to the north to construct the proposed access has not been received and this second access is not guaranteed. Staff recommends that should the applicant not obtain a perpetual access easement to the property to the north prior to the issuance of a building permit, the application shall be resubmitted to the Planning Commission for evaluation of safe and adequate means of access and traffic patterns.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the

respective use areas.

FINDING: The applicant proposes to meet the parking requirements set forth in the Unified Development Code. The required number of parking for the proposed development is 73 spaces (50 minimum and 95 maximum). The applicant proposes the development of 55 parking spaces. The required number of parking spaces was calculated based on all commercial space being occupied by retail business. Approval of a Certificate of Occupancy for each tenant shall be subject to the provision of sufficient parking within the development.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The Unified Development Code requires a 15' landscape area adjacent to the right-of-way and 5' greenspace adjacent to side and rear property lines. The applicant's proposal provides a 15' landscape area adjacent to the right-of-way, but no more than 3' greenspace adjacent to the side and rear property lines; the applicant has requested approval of a 3' side and rear building setback. Approximately 36.4% of the site is retained as greenspace.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are provided within the right-of-way and the development, with a pedestrian connection from the right-of-way to the interior of the project.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights shall be installed a maximum 300' apart adjacent to the right-of-way.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private drives shall conform to city standards. Recommended improvements along Crossover Road/Hwy 265 are limited to the construction of a 6' sidewalk at the right-of-way as AHTD is anticipated to improve the street adjacent to this property in the near future. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The applicant proposes to construct the nonresidential facilities within the same phase as the residential facilities.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan has been submitted and reviewed by the Urban Forester. Tree canopy covers 23% of the site, all of which is required to be preserved by Planned Zoning District regulations. The applicant proposes preservation of 13% canopy; therefore, mitigation is required.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has submitted architectural design standards, elevations, and a material sample board. Planning Commission determination of compliance with the standards set forth by the applicant and Commercial Design Standards is addressed in the conditions of approval.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also

issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing

natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds the uses to be compatible to the area, with the commitments, development standards, conditions of approval and other criteria in place with the rezoning request.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1734, with one Unique Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
 - (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed use is mixture of residential and retail/office uses. This type of development will provide a transition between commercial areas to the north and residential uses to the south. Staff finds that it meets the intent and purpose of an R-PZD.

(2) Proposed Uses:

Permitted Uses:

Use Unit #	Type of Use
Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses:

Use Unit #	Type of Use
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 16	Shopping goods

FINDING: See Zoning Criteria Chart above for the use permitted by right as proposed by the applicant.

(3) Conditions.

(2) All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified; subject to City Council approval of the Planned Zoning District request.

(3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

(4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RMF-24, Residential Multi-family – 24 units per acre to R-PZD 05-1734, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential. Rezoning this property to R-PZD 05-1734, with the associated Master Development Plan, is not specifically consistent with the land use plan for this area, however it is consistent with the surrounding land uses and allows for a transition between commercial property to the north and residential development to the south. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed in order to develop the property with both residential and retail/office use and a reduced setback.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will cause an increase in traffic, as the existing property is currently vacant. However, by right, the property could be developed at 24 units per acre, which would allow the construction of approximately 36 dwelling units. Staff finds the proposed mixed use development will not appreciably increase traffic danger and congestion on Crossover Road/Hwy 265 or Joyce Boulevard, two Principal Arterial streets.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Population density will increase with the requested rezoning. The property is currently vacant. The development of 12 residential units will increase the population of this area by approximately 27 persons.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

November 21, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **Annexation PZD 05-1734 Planned Zoning District (Paradise Point, 177)** submitted by H2 Engineering, Inc for property located W. of Crossover, S of Joyce Blvd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: November 21, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: November 21, 2005 Re-zoning Review

PZD05-1734 (Paradise Point, 177)

These 1.55 acres are covered by Engine 5 at 833 N Crossover.

The property is 3.2 miles from the station with a projected response time of 7 minutes to this development. After Station 5 is relocated to the corner of Crossover and Old Wire, the distance to the development will be reduced to 1.1 miles with an anticipated response time of 2 minutes.

The Fire Department anticipates 5 calls for service (3 EMS & 2 Fire/Other) once the development is completed and maximum build-out has occurred.

If you have any questions please feel free to call or email me.

Dale Riggins
Fayetteville Fire Department



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: November 21, 2005

ITEM #: PZD 05-1734: Planned Zoning District (Paradise Point)

Requirements Submitted:

T	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	1.55
square feet	67,518
Existing Tree Canopy	
acres	
square feet	15,848
percent of site area	23%
Existing Tree Canopy Preserved	
acres	
square feet	8,571
percent of total site area	13%
Percent Minimum Canopy Required	23%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- 1 This site has several large significant oaks and other volunteer species. It appears that the area has had fill put in some areas in the past decreasing the desirability of preserving many of these trees.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- 2 Environmental degradation will be minimal on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- 3 The adjacent properties will not be affected by the reduction in canopy cover.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- 4 N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- 5 The size and shape of this lot has reduced the flexibility of this design substantially.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- 6 The general health of these trees is good to fair.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- 7 The trees proposed for preservation should not be affected by utilities. Parking lot islands are proposed to preserve several trees found along the perimeters.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- 8 N/A.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- 9 The preservation areas should stay protected from utilities. Topography was not much of an issue on this site.**

Construction requirements for On-Site and Off-Site Alternatives.

10 N/A

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

11 Mitigation will be required to replace 7,270 square feet of removed canopy.

The effect other chapters of the UDC, and departmental regulations have on the development design.

12 N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

13 N/A

The impact a substantial modification or rejection of the application would have on the Applicant:

14 Staff is recommending approval of this Tree Preservation Plan with the following conditions of approval:

Conditions for Approval:

- 1. Tree T9 and T10 have half of their canopy on this property. The developer should be credited for this. Please double check your calculations and the action comment in the tree inventory.**
- 2. Mitigation will be required to replace 6014 square feet of canopy. The applicant has chosen to do a combination of on-site planting and a deposit into the Tree Escrow Account.**

PARADISE POINT MASTER DEVELOPMENT PLAN

(R-PZD 05-1734)



ENGINEERING, INC.

Owner / Applicant: Paradise Point, LLC
3900 Front St.
Fayetteville, AR 72703

Representative: H2 Engineering
2758 Millennium Dr.
Fayetteville, AR 72703

Summary

Paradise Point is a PZD located in east Fayetteville on Highway 265 just south of the intersection of Highway 265 and Joyce Boulevard. We are proposing a 2-story building with 12,065 SF of office / retail space and one 2bd/2ba residential unit on the first floor and 11 - 2bd/2ba residential units on the second floor. The building footprint will be 13,445 S.F. (this square footage does not include balconies or overhangs). The property is currently zoned RMF-24, with R-O zoning to the north and RMF-24 to the south. We feel that the proposed PZD is a perfect fit between these two zonings.

General Project Concept

- **Street and Lot Layout** – This PZD is a single building with parking as required by the Unified Development Code.
- **Site Plan** – See Master Development Plan Sheet
- **Buffer Areas** – There is a landscape buffer to the north of the property to serve as a buffer between our project and the existing building to the north. The buffer is 12' wide with trees located every 30'.
- **Tree Preservation Areas** – There are no existing large groupings of trees on the site that would serve as one large tree preservation area. However, great care has been taken to preserve as many existing trees as possible. Four additional trees will be planted in the detention pond to serve as mitigation for the trees that are disturbed by the development.
- **Storm Water Detention Areas and Drainage** – Drainage flows onto the site from the northwest. This water will be diverted into a storm pipe and directed to the south end of the site and into a detention pond. This detention pond will serve to detain the water coming onto the site and the water generated on site. Storm water also travels along the east side of the property in an existing ditch along Highway 265. The only disturbance to this ditch will be to pipe it under the entrance drive which will not significantly impact the storm drainage along Highway 265.
- **Undisturbed Natural Areas** – There are a few small undisturbed areas around the perimeter of the site. These areas have been left undisturbed in order to prevent the disturbance of existing trees.
- **Existing and Proposed Utility Connections and Extensions** – An 8" sanitary sewer line is located to the west and an 8" water line is located on site on the west side of the property. We propose connecting to each of these for service.
- **Development and Architectural Design Standards** – The building on this project is designed to project the feel and climate of a small town urban setting similar to Dickson Street, rooted in images of the French Quarter in New Orleans.
- **Building Elevations** – Building Elevations are attached.

Proposed Development Phasing and Time Frame

This project consists of 1 phase. This zoning approval is intended to allow construction anytime within 5 years of approval. However, construction is anticipated to occur from January, 2006 – May, 2006.

Proposed Planning Areas with Proposed Zoning and Development Standards

This project has only 1 planning area. The project will consist of a single 2-story building with office / retail space and 1 residential unit on the first floor and residential units only on the second floor.

Permitted uses will be City-wide Uses by right (Use Unit 1), government facilities (Use Unit 5), offices, studios, and related services (Use Unit 12), neighborhood shopping goods (Use Unit 15), shopping goods (Use Unit 16), trades and services (Use Unit 17), home occupations (Use Unit 24), professional offices (Use Unit 25), and multi-family dwellings (Use Unit 26).

Conditional uses will be City-wide Uses by conditional use (Use Unit 2), eating places (Use Unit 13), and wireless communication facilities (Use Unit 36).

The residential unit density will be 7.7 units or less per acre. The office/retail space will be 12,065 SF or less. Front setbacks will be a minimum of 50 feet, side and rear setbacks will be a minimum of 3 feet. Height restrictions in this project are set at 35 feet.

Materials proposed for the building are brick, hardi-board siding, metal roofing, and wrought iron railings.

Analysis of the Site Characteristics

No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

Reason for Zoning Change Request

A request for a zoning change is being made on this piece of property because the property is difficult to develop under the current RMF-24 Zoning. This property is a combination of two parcels which have been combined to form an irregular shaped lot. The architect has designed the building in a way which works well with the irregular lot shape. We also feel that the proposed mixed use nicely transitions from R-O and RMF-24 of the adjacent properties while conforming to the well landscaped and sufficiently articulated buildings in surrounding developments.

Comparison of the Proposed Master Development Plan to the Current Zoning District Requirements

Description	Current Zoning (RMF-24) Requirements	Proposed Zoning (R-PZD) Requirements
Permitted Use Units Allowed	Use Unit 1 - City-wide Uses by right Use Unit 8 - Single-family dwellings Use Unit 9 - Two-family dwellings Use Unit 10 - Three-family dwellings Use Unit 26 - Multi-family dwellings	Use Unit 1 - City-wide Uses by right Use Unit 5 - Government Facilities Use Unit 12 - Offices, studios, etc. Use Unit 15 - Neighborhood shopping Use Unit 16 - Shopping goods Use Unit 17 - Trades and Services Use Unit 24 - Home occupation Use Unit 25 - Professional offices Use Unit 26 - Multi-family dwellings
Conditional Uses	Use Unit 2 - City-wide uses by cond. Use permit Use Unit 3 - Public protection and utility fac. Use Unit 4 - Cultural and recreational facilities Use Unit 11 - Manufactured home park Use Unit 24 - Home occupation Use Unit 25 - Professional offices Use Unit 36 - Wireless comm. facilities	Use Unit 2 - City-wide uses by cond. use permit Use Unit 13 - Eating places Use Unit 36 - Wireless comm. facilities

Description	Current Zoning (RMF-24) Requirements	Proposed Zoning (R-PZD) Requirements
Front Setback	25 Ft.	50 Ft.
Side Setbacks	8 Ft.	3 Ft.
Rear Setbacks	25 Ft.	3 Ft.
Maximum Height	20 Ft.	35 Ft.
Density - Units per Acre	4 to 24	7.7 (max)
Lot Area Minimum (Prof. Offices)	1 Acres	1.55 Acres
Lot Width Minimum (Prof. Offices)	100 Ft.	40 Ft.
Land Area per Dwelling Unit (2 BR)	2,000 SF	5,627 SF (max)
Site Coverage (% covered by bldg)	N/A	19.9%

Note: The existing zoning of this property is RMF-24.

Recreational Facilities

Sweetbriar Park is located ½ mile southwest of the project. Routh Park and Rocky Branch Park are both located approximately 1 mile south of the project. No recreational Facilities are planned on this site.

Relationship to the Existing and Adjacent Land Uses

The property is bounded on the north and across Highway 265 to the east by R-O zoning and to the south and west by RMF-24 zoning. This PZD is the perfect

transition between these zonings, allowing both office space and residential units. The property to the north is currently used as office space and the property to the west is a golf course development. The property to the south and to the east, across Highway 265, are currently undeveloped.

Compliance with Fayetteville General Plan 2020

This development does comply with the Fayetteville General Plan 2020.

Traffic Study

No traffic study has yet been required for this project and we do not anticipate one being required, due to the small amount of impact this project will have on Highway 265 to the east.

Impacts on City Services

There are no significant impacts to city services associated with this project.

Statement of Commitments

Dedication and On or Off-site Improvements

An additional 15' of Right-of-Way is being dedicated on Highway 265, going from a 40' Right-of-Way from centerline to a 55' Right-of-Way from Centerline. This accommodates a 110' Right-of-Way on Highway 265, as required for Principal Arterials.

Natural Resources and Environmental Sensitive Areas

There are no known natural resources or environmentally sensitive areas on this site.

Project Phasing Restrictions

The phases and estimated completion dates have been established as presented previously herein the master plan for the project. As phasing has been identified, described and approved as part of the PZD master development plan, process phasing may vary from the requirements of Chapter 166 of the UDC with regard to expiration of permits and plans.

Fire Protection

Paradise Point will be served by the Fayetteville Fire Department. Station 4 is located less than 2.5 miles away from Paradise Point. A new Fire Station is proposed at Routh Park 1 mile to the south of Paradise Point on Highway 265.

Other Commitments Imposed by the City

There are currently no other commitments imposed by the City.

Parks, Trails and Open Space Commitments

Tree preservation and protection will be implemented in accordance with the City of Fayetteville code of Ordinances Title XV Unified Development

Code: Chapter 167 Tree Preservation & Protection. Landscaping within Paradise Point will be designed in accordance to the City of Fayetteville Landscape Manual which sets forth the standards and specifications for Tree Preservation, Protection and Landscaping.

Building Elevations

Building Elevations are attached.

Development Standards, Conditions and Review Guidelines

Screening and Landscaping

The screening and landscaping will be provided as set forth in Section 166.09 Buffer Strips and Screening.

Traffic and Circulation

Design of the traffic and circulation on the project will be in accordance with Section 166 of the Unified Development Code. In order to provide better traffic circulation and connectivity, a connection to the parking area on the property directly north of Paradise Point is being proposed. This will provide an entrance / exit point on Joyce St. Discussions with the owner of that property are on-going at this time. A proposed 40' access easement is pending.

Parking Standards

The parking lot will be designed and constructed in accordance with the standards found in Section 172 of the Unified Development Code.

Perimeter Treatment

No perimeter treatment is planned.

Sidewalks

Sidewalks will be designed and constructed in accordance with the Master Street Plan and Section 171 of the Unified Development Code.

Street Lights

Street lights will be designed and constructed in accordance with the Unified Development Code.

Water

Water lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8" water line is located to on site which we propose to connect to.

Sewer

Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8" sanitary sewer line

is located to the west of the property along the golf course which we propose to connect to.

Streets and Drainage

Streets and drainage will be designed and constructed in accordance with the Unified Development Code and the Master Street Plan.

Tree Preservation

Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code.

Commercial Design Standards

A portion of the structure proposed for this project will house office or commercial space. Therefore, the structure will comply with the commercial design standards as set forth in Section 166.14, *Sites and Landscapes*, Development Standards and Construction and Appearance Design Standards for Commercial Structures.

Signage

All signage on the project shall be permitted in accordance with R-O district criteria as set forth by Chapter 174 of the Unified Development Code. A monument sign is planned at the entrance on Highway 265 and individual office signs are planned for the office units.

View Protection

There is a landscape buffer to the north of the property to serve as a buffer between our project and the existing building to the north.

Revocations

The developer understands causes for revocation and will take all measures necessary to avoid revocation.

Covenants, Trusts, and Homeowner Associations

There are no covenants, trusts or Homeowner Associations associated with this project.

WILLIAM KIM FUGITT, AIA

October 27, 2005

SUZANNE MORGAN
ASSOCIATE PLANNER
CITY OF FAYETTEVILLE
125 W MOUNTAIN
FAYETTEVILLE, AR 72701

RE: PARADISE POINT

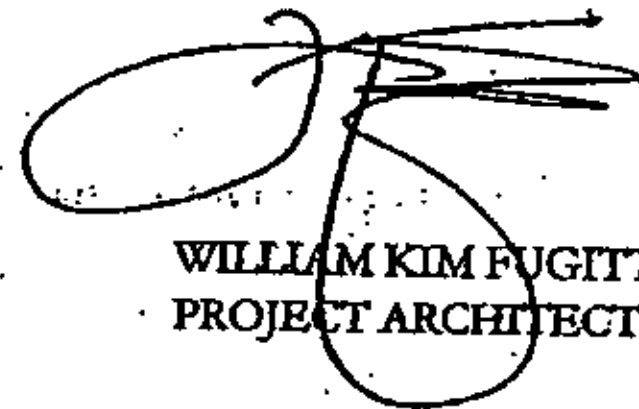
MS. MORGAN,

I UNDERSTAND THAT YOU ARE UNABLE TO DISCERN THE MATERIALS AND COLOR OF THE SURFACE LOCATED BENEATH THE COVERED PORCHES ON THE COLORED ELEVATIONS PRESENTED EARLIER. SHADING WAS ADDED TO THE ELEVATIONS TO BETTER DESCRIBE THE DEPTH AND ARTICULATION OF THE WALL SURFACE AND AS A RESULT, SOME OF THE DETAIL IS LOST. SOME TIMES YOU JUST CAN'T WIN.

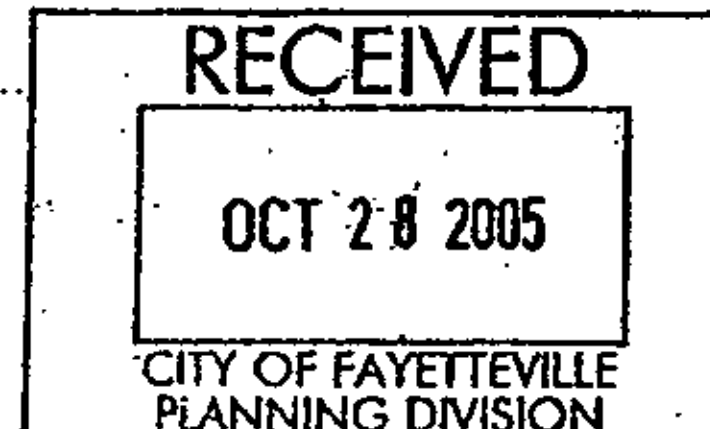
PLEASE FIND THE ATTACHED ARCHITECTURAL ELEVATION INDICATING "HARDI-LAP" SIDING IN THE SUBJECT AREAS. THE SIDING SHALL BE PAINTED DIFFERENT SHADES OF WHITE UNDER EACH OF THE 3 PORCH AREAS ALLOWING THEM TO CONFORM YET VARY. THE FAÇADE IS INTENDED TO RECREATE A "DICKSON STREET"/"FRENCH QUARTER" IMAGE WHERE THIS MATERIAL AND TREATMENT ARE COMMON.

ALSO, PLEASE FIND COPIES OF THE 1ST AND 2ND FLOOR PLANS INDICATING WHERE THE ENTRIES ARE TO THE APARTMENT UNITS.

RESPECTFULLY,



WILLIAM KIM FUGITT, AIA
PROJECT ARCHITECT



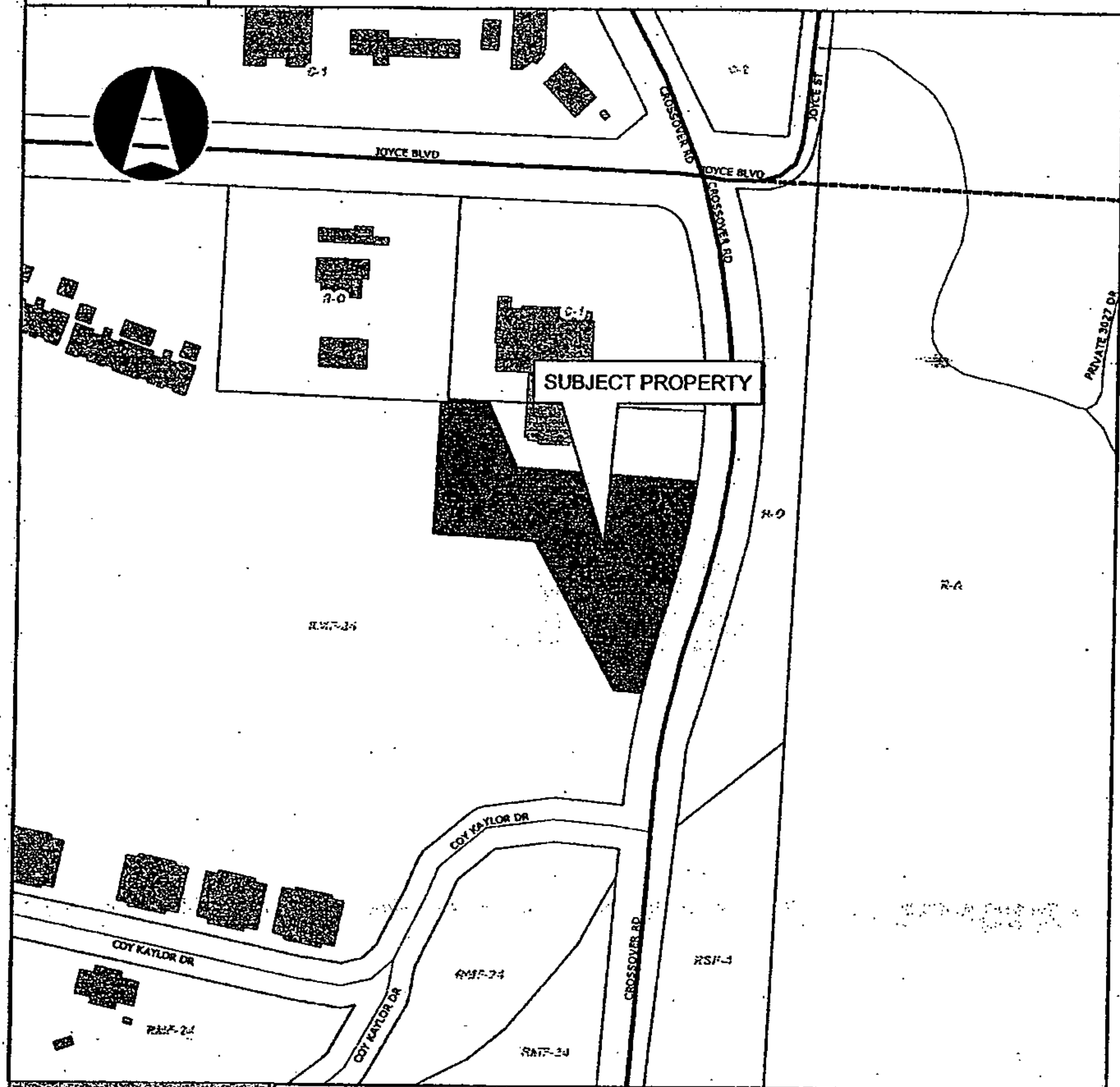
1165 JOYCE BLVD - FAYETTEVILLE, AR - 72703
PHONE: 479.521.6686 • FAX: 479.527.8855

November 28, 2005
Planning Commission
R-PZD 05-1734 (Paradise Point)
Agenda Item 15
Page 32 of 34

RPZD05-1734

PARADISE POINT

Close Up View



Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- Fayetteville
- Outside City
- RPZD05-1734
- vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet

November 28, 2005
Planning Commission
R-PZD 05-1734 (Paradise Point)
Agenda Item 16
Page 33 of 34

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1734, PARADISE POINT, LOCATED WEST OF CROSSOVER, SOUTH OF JOYCE BOULEVARD, CONTAINING APPROXIMATELY 1.55 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RMF-24, Residential Multi-Family, 24 units per acre, to R-PZD 05-1734 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
MDP R-PZD 05-1734

LOTS 1 AND 2 OF FINAL PLAT OF SEXTON POINT, PLAT RECORD 13-23, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1
THENCE N02°25'36"E 184.24 FEET;
THENCE S88°07'29"E 10.49 FEET;
THENCE N02°11'58"E 4.23 FEET;
THENCE S87°38'29"E 55.34 FEET;
THENCE S23°38'06"E 99.87 FEET;
THENCE S86°00'07"E 248.30 FEET TO THE WEST RIGHT-OF-WAY OF ARKANSAS HIGHWAY 265;
THENCE ALONG SAID WEST RIGHT-OF-WAY THE FOLLOWING THREE COURSES: THENCE 134.67 FEET ALONG A CURVE TO THE RIGHT HAVING A 914.93 FOOT RADIUS AND A S10°53'03"W 134.55 FOOT CHORD;
THENCE S15°14'01"W 122.74 FEET;
THENCE 45.11 FEET ALONG A CURVE TO THE LEFT HAVING A 1175.73 FOOT RADIUS AND A S13°38'43"W 45.10 FOOT CHORD;
THENCE LEAVING SAID WEST RIGHT-OF-WAY N86°33'20"W 40.99 FEET;
THENCE N28°47'51"W 234.05 FEET;
THENCE N85°55'23"W 139.87 FEET TO THE POINT OF BEGINNING, CONTAINING 1.55 ACRES, MORE OR LESS.



PC Meeting of November 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2005 *Updated December 2, 2005*

R-PZD 05-1734: Planned Zoning District (PARADISE POINT, 177): Submitted by H2 ENGINEERING, INC. for property located at W OF CROSSOVER, S OF JOYCE BLVD. The property is zoned RMF-24, Residential Multi-Family – 24 units per acre, and contains approximately 1.55 acres. The request is to approve a Residential Planned Zoning District with 12,065 s.f. of retail space, 12 residential units (24 bedrooms) and 55 parking spaces proposed.

Property Owner: KIRK ELSASS

Planner: SUZANNE MORGAN

Findings:

Property Description: The subject property consists of approximately 1.55 acres located west of Crossover Road and the UAMS Campus. It is currently zoned RMF-24 and surrounded by a golf course to the west and south.

Proposal: The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. The proposed New Orleans style building will be two stories with 11 residential units on the second floor and one residential unit with 12,065 square feet of retail/office retail space on the first floor.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	UAMS Campus	R-O, C-1
South	Golf Course	RMF-24
East	Vacant	R-O
West	Golf Course	RMF-24

has not received approval of the proposed access to the north. Staff recommends that should this access easement not be obtained by the developer prior to building permit consideration, that the project be reconsidered by the Planning Commission to determine if with one access to Crossover Road/Hwy 265 that safe and adequate means for traffic is provided.

Adjacent Master Street Plan Streets: Hwy 265 (Crossover Road) – Principal Arterial

Street Improvements: Staff recommends street improvements on Hwy 265 to include the construction of a sidewalk.

Parks: Park fees are due for 12 multi-family dwellings.

Tree Preservation:

Existing:	23%
Preserved:	13%
Required:	23%

Mitigation will be required to replace 6014 square feet of canopy. The applicant has chosen to do a combination of on-site planting and a deposit into the Tree Escrow Account.

Recommendation: Staff recommends forwarding the Master Development Plan – Planned Zoning District for Paradise Point (R-PZD 05-1734), to the City Council for approval with the following conditions:

The Planning Commission voted 8-1-0 to approve an amendment to Condition #17 with Commissioner Anthes voting no.

The Planning Commission voted 9-0-0 for approval of the rezoning and development approval with the following amended conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends construction of a 6' sidewalk along Hwy 265, adjacent to the Master Street Plan right-of-way.*
2. Planning Commission determination of commercial design standards. *Staff finds that the proposed elevations are compliant with Commercial Design Standards and the intent of the architectural design criteria listed within the Master Development Plan Project Booklet.*
The Subdivision Committee found in favor of the proposed elevations and supported the modification of the building material of the western elevation from brick to siding.

The Planning Commission voted to approve the commercial design standards.

The following bulk and area regulations are proposed by the applicant:

(A) *Proposed Uses.*

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 5	Government Facilities
Use Unit 12	Offices, studios, and related services
Use Unit 15	Neighborhood Shopping Goods
Use Unit 16	Shopping Goods
Use Unit 17	Trades and Services
Use Unit 24	Home occupations
Use Unit 25	Professional Offices
Use Unit 26	Multi-family Dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Use Unit 13	Eating Places
Use Unit 36	Wireless Communication Facilities

(B) *Density.*

Units per acre	7.7
----------------	-----

(C) *Bulk and area regulations.*

Lot minimum width	40 feet
Lot area minimum	1.55 acres
Land area per dwelling unit	5,625 square feet maximum

(E) *Setback requirements.*

Front Building Setbacks: 50'.

Rear Building Setback: 3'

Side Building Setback: 3'

(F) *Height.* 35' maximum height

(G) *Building area.* 19.9% of site.

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: The applicant has proposed access to the development from Hwy 265 and an access easement through the U of A Medical Sciences campus to the north. At this time, the applicant

3. Planning Commission determination of safe and adequate access to the subject property. *The applicant has proposed access to the development from Hwy 265 and an access easement through the U of A Medical Sciences campus to the north. At this time, the applicant has not received approval of the proposed access to the north. Staff recommends that should the applicant not obtain a perpetual access easement to the property to the north prior to the issuance of a building permit, the application shall be resubmitted to the Planning Commission for evaluation of safe and adequate means of access and traffic patterns.*

The Planning Commission recommended approval with a second access and the allowance for this second access to the north to be moved west of where currently proposed. The plat has been revised to show a secondary access to the north along the western property line. The addition of parking has also been shown as part of the proposed access to serve the property to the north. Prior to construction of this parking area all necessary permits for construction shall be obtained.

4. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
5. If grading within 5' feet of any property line, the applicant shall obtain written approval from the adjacent property owner.
6. The applicant shall submit a lighting plan and cut sheets which meet City ordinance requirements to the Planning Division for review at the time of building permit.
7. Dedication of right-of-way for Hwy 265 by warranty deed prior to issuance of a building permit.
8. The off-site utility easement to the south of the property and access easement to north shall be obtained by separate document prior to issuance of a building permit.
9. The existing utility easement on the property that is within the proposed building footprint shall be vacated prior to the issuance of a building permit.
10. Parking requirements shall be met at all times. The required parking numbers may increase should one or more tenant spaces be modified to a use that requires more parking than retail.
11. Parks fees for 12 multi-Family Units are due in the amount of \$4,716 prior to issuance of a building permit.
12. The applicant shall mitigate for the removal of tree canopy by planting 17 trees, contributing \$4,250, or a combination thereof. Species and location of mitigation trees

shall be approved by the Urban Forester.

13. Signs shall be permitted in accordance with the R-O, Residential Office, zoning district regulations.
14. Permitted uses within this R-PZD shall be restricted to Use Unit 1: City-wide Uses by right; Use Unit 5: Government Facilities; Use Unit 12: Offices, studios, and related services; Use Unit 15: Neighborhood Shopping Goods; Use Unit 16: Shopping Goods; *Use Unit 17: Trades and Services*; Use Unit 24: Home Occupations; Use Unit 25: Professional Offices; and Use Unit 26: Multi-family Dwellings.
15. Conditional uses within this R-PZD shall be restricted to Use Unit 2: City wide Uses by Conditional Use; Use Unit 13: Eating Places; and Use Unit 36: Wireless Communication Facilities.
16. The applicant shall address all comments on the attached Landscape Plan Review and Tree Preservation Review, which shall be considered as part of the official conditions of approval.
17. The project shall be constructed in one phase. All required permits to construct the proposed development shall be issued within ~~5~~ 2 (*two*) years of City Council approval.

Standard Conditions of Approval:

18. Street lights shall be installed with a maximum separation of 300 feet along Hwy 265 (Crossover Road).
19. Three bike racks shall be installed on the property within 50' of the entrance and in accordance with the requirements of Ch. 172.10 of the Unified Development Code and clearly identified on the site plan for building permit review.
20. Trash enclosures shall be screened on a minimum of three (3) sides with materials that are complimentary to and compatible with the proposed building. Elevations of the enclosure shall be submitted for review at the time of building permit application. Access to the enclosure shall not be visible from the street, pursuant to city ordinance.
21. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure.
22. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
23. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat

review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

24. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
25. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

The applicant has made the requested modifications to the plat and the project booklet.

Additional Conditions:

Planning Commission Action:

☐ Approval

☐ Forwarded to P.C.

Meeting Date: November 28, 2005

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 05-1734

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for the development of vacant property located west of Crossover Road, south of Joyce Boulevard.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions with some minor corrections required.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development may require the provision of public facilities, at the cost of the developer. Fire and emergency response time is adequate, as indicated in the attached correspondence.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, creates a mixed use development that will provide a suitable transition between commercial and office developments to the north and residential properties to the south. Although the immediate property to the south, east, and west are not developed at this time, the Future Land Use Plan designates these areas for private open space and residential development. Staff finds that the proposed use is compatible with these commercial and residential uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is currently vacant property suitable for development of residential and commercial use.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: As the property is currently vacant and yields no traffic, the proposed development would result in an increase in the traffic on the surrounding streets. These streets (Crossover Road/Hwy 265 and Joyce Boulevard) are, however, designated as Principal Arterial streets intended to carry large volumes of traffic.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural elevations of the proposed development and architectural standards have been proposed. Staff finds that the elevations proposed adhere to the standards set forth and are compatible with the surrounding developments.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District and development plans have been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. These criteria have been incorporated into the proposed development plans.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and

landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is typically required between commercial and residential developments. None of the adjacent properties are used for residential purposes. However, the applicant proposes a 12' landscape buffer with trees planted 1 per 30' along the north property line.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The applicant proposes one access onto Crossover Road/Hwy 265 and one access into AHEC to the north. Approval from the adjoining property to the north to construct the proposed access has not been received and this second access is not guaranteed. Staff recommends that should the applicant not obtain a perpetual access easement to the property to the north prior to the issuance of a building permit, the application shall be resubmitted to the Planning Commission for evaluation of safe and adequate means of access and traffic patterns.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the

respective use areas.

FINDING: The applicant proposes to meet the parking requirements set forth in the Unified Development Code. The required number of parking for the proposed development is 73 spaces (50 minimum and 95 maximum). The applicant proposes the development of 55 parking spaces. The required number of parking spaces was calculated based on all commercial space being occupied by retail business. Approval of a Certificate of Occupancy for each tenant shall be subject to the provision of sufficient parking within the development.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The Unified Development Code requires a 15' landscape area adjacent to the right-of-way and 5' greenspace adjacent to side and rear property lines. The applicant's proposal provides a 15' landscape area adjacent to the right-of-way, but no more than 3' greenspace adjacent to the side and rear property lines; the applicant has requested approval of a 3' side and rear building setback. Approximately 36.4% of the site is retained as greenspace.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are provided within the right-of-way and the development, with a pedestrian connection from the right-of-way to the interior of the project.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights shall be installed a maximum 300' apart adjacent to the right-of-way.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private drives shall conform to city standards. Recommended improvements along Crossover Road/Hwy 265 are limited to the construction of a 6' sidewalk at the right-of-way as AHTD is anticipated to improve the street adjacent to this property in the near future. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The applicant proposes to construct the nonresidential facilities within the same phase as the residential facilities.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan has been submitted and reviewed by the Urban Forester. Tree canopy covers 23% of the site, all of which is required to be preserved by Planned Zoning District regulations. The applicant proposes preservation of 13% canopy; therefore, mitigation is required.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has submitted architectural design standards, elevations, and a material sample board. Planning Commission determination of compliance with the standards set forth by the applicant and Commercial Design Standards is addressed in the conditions of approval.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also

issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing

natural features and amenities.

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds the uses to be compatible to the area, with the commitments, development standards, conditions of approval and other criteria in place with the rezoning request.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1734, with one Unique Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed use is mixture of residential and retail/office uses. This type of development will provide a transition between commercial areas to the north and residential uses to the south. Staff finds that it meets the intent and purpose of an R-PZD.

(2) *Proposed Uses.*

Permitted Uses:

Use Unit #	Type of Use
Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses:

Use Unit #	Type of Use
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 16	Shopping goods

FINDING: See Zoning Criteria Chart above for the use permitted by right as proposed by the applicant.

(3) *Conditions.*

(2) All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified; subject to City Council approval of the Planned Zoning District request.

(3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

(4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RMF-24, Residential Multi-family – 24 units per acre to R-PZD 05-1734, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential. Rezoning this property to R-PZD 05-1734, with the associated Master Development Plan, is not specifically consistent with the land use plan for this area, however it is consistent with the surrounding land uses and allows for a transition between commercial property to the north and residential development to the south. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed in order to develop the property with both residential and retail/office use and a reduced setback.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will cause an increase in traffic, as the existing property is currently vacant. However, by right, the property could be developed at 24 units per acre, which would allow the construction of approximately 36 dwelling units. Staff finds the proposed mixed use development will not appreciably increase traffic danger and congestion on Crossover Road/Hwy 265 or Joyce Boulevard, two Principal Arterial streets.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Population density will increase with the requested rezoning. The property is currently vacant. The development of 12 residential units will increase the population of this area by approximately 27 persons.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

PARADISE POINT MASTER DEVELOPMENT PLAN

(R-PZD 05-1734)



Owner / Applicant: Paradise Point, LLC
3900 Front St.
Fayetteville, AR 72703

Representative: H2 Engineering
2758 Millennium Dr.
Fayetteville, AR 72703

Summary

Paradise Point is a PZD located in east Fayetteville on Highway 265 just south of the intersection of Highway 265 and Joyce Boulevard. We are proposing a 2-story building with 12,065 SF of office / retail space and one 2bd/2ba residential unit on the first floor and 11 - 2bd/2ba residential units on the second floor. The building footprint will be 13,445 S.F., not including balconies or overhangs. With balconies included, the second floor will be 14,744 S.F. The property is currently zoned RMF-24, with R-O zoning to the north and RMF-24 to the south. We feel that the proposed PZD is a perfect fit between these two zonings.

General Project Concept

- **Street and Lot Layout** – This PZD is a single building with parking as required by the Unified Development Code.
- **Site Plan** – See Master Development Plan Sheet
- **Buffer Areas** – There is a landscape buffer to the north of the property to serve as a buffer between our project and the existing building to the north. The buffer is 12' wide with trees located every 30'.
- **Tree Preservation Areas** – There are no existing large groupings of trees on the site that would serve as one large tree preservation area. However, great care has been taken to preserve as many existing trees as possible. Four additional trees will be planted in the detention pond to serve as mitigation for the trees that are disturbed by the development.
- **Storm Water Detention Areas and Drainage** – Drainage flows onto the site from the northwest. This water will be diverted into a storm pipe and directed to the south end of the site and into a detention pond. This detention pond will serve to detain the water coming onto the site and the water generated on site. Storm water also travels along the east side of the property in an existing ditch along Highway 265. The only disturbance to this ditch will be to pipe it under the entrance drive which will not significantly impact the storm drainage along Highway 265.
- **Undisturbed Natural Areas** – There are a few small undisturbed areas around the perimeter of the site. These areas have been left undisturbed in order to prevent the disturbance of existing trees.
- **Existing and Proposed Utility Connections and Extensions** – An 8" sanitary sewer line is located to the west and an 8" water line is located on site on the west side of the property. We propose connecting to each of these for service.
- **Development and Architectural Design Standards** – The building on this project is designed to project the feel and climate of a small town urban setting similar to Dickson Street, rooted in images of the French Quarter in New Orleans.
- **Building Elevations** – Building Elevations are attached.

Proposed Development Phasing and Time Frame

This project consists of 1 phase. This zoning approval is intended to allow construction anytime within 2 years of approval. However, construction is anticipated to occur from January, 2006 – May, 2006.

Proposed Planning Areas with Proposed Zoning and Development Standards

This project has only 1 planning area. The project will consist of a single 2-story building with office / retail space and 1 residential unit on the first floor and residential units only on the second floor.

Permitted uses will be City-wide Uses by right (Use Unit 1), government facilities (Use Unit 5), offices, studios, and related services (Use Unit 12), neighborhood shopping goods (Use Unit 15), shopping goods (Use Unit 16), trades and services (Use Unit 17), home occupations (Use Unit 24), professional offices (Use Unit 25), and multi-family dwellings (Use Unit 26).

Conditional uses will be City-wide Uses by conditional use (Use Unit 2), eating places (Use Unit 13), and wireless communication facilities (Use Unit 36).

The residential unit density will be 7.8 units or less per acre. The office/retail space will be 12,065 SF or less. Front setbacks will be a minimum of 50 feet, side and rear setbacks will be a minimum of 3 feet. Height restrictions in this project are set at 35 feet.

Materials proposed for the building are brick, hardi-board siding, metal roofing, and wrought iron railings.

Analysis of the Site Characteristics

No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

Reason for Zoning Change Request

A request for a zoning change is being made on this piece of property because the property is difficult to develop under the current RMF-24 Zoning. This property is a combination of two parcels which have been combined to form an irregular shaped lot. The architect has designed the building in a way which works well with the irregular lot shape. We also feel that the proposed mixed use nicely transitions from R-O and RMF-24 of the adjacent properties while conforming to the well landscaped and sufficiently articulated buildings in surrounding developments.

Comparison of the Proposed Master Development Plan to the Current Zoning District Requirements

Description	Current Zoning (RMF-24) Requirements	Proposed Zoning (R-PZD) Requirements
Permitted Use Units Allowed	Use Unit 1 - City-wide Uses by right Use Unit 8 - Single-family dwellings Use Unit 9 - Two-family dwellings Use Unit 10 - Three-family dwellings Use Unit 26 - Multi-family dwellings	Use Unit 1 - City-wide Uses by right Use Unit 5 - Government Facilities Use Unit 12 - Offices, studios, etc. Use Unit 15 - Neighborhood shopping Use Unit 16 - Shopping goods Use Unit 17 - Trades and Services Use Unit 24 - Home occupation Use Unit 25 - Professional offices Use Unit 26 - Multi-family dwellings
Conditional Uses	Use Unit 2 - City-wide uses by cond. Use permit Use Unit 3 - Public protection and utility fac. Use Unit 4 - Cultural and recreational facilities Use Unit 11 - Manufactured home park Use Unit 24 - Home occupation Use Unit 25 - Professional offices Use Unit 36 - Wireless comm. facilities	Use Unit 2 - City-wide uses by cond. use permit Use Unit 13 - Eating places Use Unit 36 - Wireless comm. facilities

Description	Current Zoning (RMF-24) Requirements	Proposed Zoning (R-PZD) Requirements
Front Setback	25 Ft.	50 Ft.
Side Setbacks	8 Ft.	3 Ft.
Rear Setbacks	25 Ft.	3 Ft.
Maximum Height	20 Ft.	35 Ft.
Density - Units per Acre	4 to 24	7.8 (max)
Lot Area Minimum (Prof. Offices)	1 Acres	1.55 Acres
Lot Width Minimum (Prof. Offices)	100 Ft.	40 Ft.
Land Area per Dwelling Unit (2 BR)	2,000 SF	5,625 SF (min)
Site Coverage (% covered by bldg)	N / A	19.9%

Note: The existing zoning of this property is RMF-24.

Recreational Facilities

Sweetbriar Park is located ½ mile southwest of the project. Routh Park and Rocky Branch Park are both located approximately 1 mile south of the project. No recreational Facilities are planned on this site.

Relationship to the Existing and Adjacent Land Uses

The property is bounded on the north and across Highway 265 to the east by R-O zoning and to the south and west by RMF-24 zoning. This PZD is the perfect transition between these zonings, allowing both office space and residential units. The property to the north is currently used as office space and the property to the west is a golf course development. The property to the south and to the east, across Highway 265, are currently undeveloped.

Compliance with Fayetteville General Plan 2020

This development does comply with the Fayetteville General Plan 2020.

Traffic Study

No traffic study has yet been required for this project and we do not anticipate one being required, due to the small amount of impact this project will have on Highway 265 to the east.

Impacts on City Services

There are no significant impacts to city services associated with this project.

Statement of Commitments

Dedication and On or Off-site Improvements

An additional 15' of Right-of-Way is being dedicated on Highway 265, going from a 40' Right-of-Way from centerline to a 55' Right-of-Way from Centerline. This accommodates a 110' Right-of-Way on Highway 265, as required for Principal Arterials.

Natural Resources and Environmental Sensitive Areas

There are no known natural resources or environmentally sensitive areas on this site.

Project Phasing Restrictions

The phases and estimated completion dates have been established as presented previously herein the master plan for the project. As phasing has been identified, described and approved as part of the PZD master development plan, process phasing may vary from the requirements of Chapter 166 of the UDC with regard to expiration of permits and plans.

Fire Protection

Paradise Point will be served by the Fayetteville Fire Department. Station 4 is located less than 2.5 miles away from Paradise Point. A new Fire Station is proposed at Routh Park 1 mile to the south of Paradise Point on Highway 265.

Other Commitments Imposed by the City

There are currently no other commitments imposed by the City.

Parks, Trails and Open Space Commitments

Tree preservation and protection will be implemented in accordance with the City of Fayetteville code of Ordinances Title XV Unified Development Code: Chapter 167 Tree Preservation & Protection. Landscaping within Paradise Point will be designed in accordance to the City of Fayetteville Landscape Manual which sets forth the standards and specifications for Tree Preservation, Protection and Landscaping.

Building Elevations

Building Elevations are attached.

Development Standards, Conditions and Review Guidelines

Screening and Landscaping

The screening and landscaping will be provided as set forth in Section 166.09 Buffer Strips and Screening.

Traffic and Circulation

Design of the traffic and circulation on the project will be in accordance with Section 166 of the Unified Development Code. In order to provide better traffic circulation and connectivity, a connection to the parking area on the property directly north of Paradise Point is being proposed. This will provide an entrance / exit point on Joyce St. Discussions with the owner of that property are on-going at this time. A proposed 40' access easement is pending.

Parking Standards

The parking lot will be designed and constructed in accordance with the standards found in Section 172 of the Unified Development Code.

Perimeter Treatment

No perimeter treatment is planned.

Sidewalks

Sidewalks will be designed and constructed in accordance with the Master Street Plan and Section 171 of the Unified Development Code.

Street Lights

Street lights will be designed and constructed in accordance with the Unified Development Code.

Water

Water lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8" water line is located on site which we propose to connect to.

Sewer

Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8" sanitary sewer line is located to the west of the property along the golf course which we propose to connect to.

Streets and Drainage

Streets and drainage will be designed and constructed in accordance with the Unified Development Code and the Master Street Plan.

Tree Preservation

Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code.

Commercial Design Standards

A portion of the structure proposed for this project will house office or commercial space. Therefore, the structure will comply with the commercial design standards as set forth in Section 166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

Signage

All signage on the project shall be permitted in accordance with R-O district criteria as set forth by Chapter 174 of the Unified Development Code. A monument sign is planned at the entrance on Highway 265 and individual office signs are planned for the office units.

View Protection

There is a landscape buffer to the north of the property to serve as a buffer between our project and the existing building to the north.

Revocations

The developer understands causes for revocation and will take all measures necessary to avoid revocation.

Covenants, Trusts, and Homeowner Associations

There are no covenants, trusts or Homeowner Associations associated with this project.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 5
2006 Bond Purchase Agreement
Wastewater Treatment Facility
Page 1 of 26

20-Dec-05

City Council Meeting Date

Stephen Davis

Submitted By

FIS Director

Division

Finance & Internal Services

Department

Action Required:

Approval of a bond ordinance authorizing the Mayor to execute a bond purchase agreement with the Arkansas Natural Resources Commission and the Arkansas Development Finance Authority for \$20 million to be used to fund a portion of the costs associated with the Wastewater System Improvements Project (West-side Treatment Plant and associated Lines/Lift Stations) and authorize City Staff to prepare the required budget amendments/payments to implement the bond purchase agreement.

Debt Service Funded By a Dedicated

3/4% Sales & Use Tax

Cost of this request

Account Number

Project Number

Category/Project Budget

Funds Used to Date

Remaining Balance

WSIP

Program Category / Project Name

Program / Project Category Name

Wastewater Construction Improvement

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

4624, 4389 &
4327

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED

12/2/05

Received in Mayor's Office

ENTERED

Mayor

Date

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Fayetteville City Council

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: December 2, 2005

SUBJECT: **Bond Ordinance – Arkansas Natural Resources Commission**

Recommendation

Approval of a bond ordinance authorizing the Mayor to execute a bond purchase agreement with the Arkansas Soil and Water Conservation Commission and the Arkansas Development Finance Authority for \$20 million to be used to fund a portion of the costs associated with the Wastewater System Improvements Project (West-side Treatment Plant and associated Lines/Lift Stations) and authorize City Staff to prepare the required budget amendments/payments to implement the bond purchase agreement.

Background/Discussion

Fayetteville citizens by public vote authorized the issuance of up-to \$125 million in sales tax backed bonds to fund the projects costs associated with the WSIP improvements. This request will utilize the remaining voter authorization for the sales tax backed bond issues. City Council previously approved utilizing market bonds to complete the voter approved sales tax backed debt for the WSIP. However, the interest rates increased prohibiting the City from issuing the full amount authorized. A copy of the financing presentation to the Fayetteville Sewer Committee is attached for review.

This bond (loan) is for \$20 million and functions as a draw-down loan. The loan interest rate is 3% fixed interest. The Bond Purchase Agreement also contains mandatory redemption requirements for any sales taxes collected that are in excess of the scheduled payment. The excess sales tax collections first go to redeem the 2005B (\$45 million) Series Bonds and then will apply ANRC Loan (\$20 million) this loan with the 2005A (\$27 million) redeemed no-later-than 2009. The 2002 bonds have been paid off. The City and the Arkansas Natural Resources Commission are committing to a disbursement cut-off date of October 15, 2008. This contract provision means that the City must request or draw-down all of the funds before October 15, 2008. Any cost for the project that is in excess of the \$125 million or is after October 15, 2008 will have to be funded from other City sources.

Budget Impact

The annual debt service cost is included in the City's Adopted Budget.



THE CITY OF FAYETTEVILLE, ARKANSAS

Wastewater System Comprehensive Plan of Finance

November 29, 2005



Table of Contents

Wastewater System Improvements

Section

Analysis of Sales and Use Tax Financing

1

Overview of Water & Sewer System Debt

2

Outstanding Debt

Debt Service Requirements

Additional Bonds Test

Coverage Analysis

Coverage Calculations

Recommended Approach for System Revenue Financing

3

City of Fayetteville
Wastewater System Financing

Sales Tax Analysis

\$20,000,000 in Additional Obligations

9

Sales Tax Financing Objectives

- **Provide flexibility in construction contract procurement.**
- **Maximize the funds available for project construction.**
- **Minimize the term of the financing in order to structure a cost effective approach to fund capital projects.**

Coverage Analysis

Projected Sales Tax Receipts			
Date	Revenue	Date	Revenue
12/1/2005	\$11,334,802.96	12/1/2010	14,125,225.52
12/1/2006	11,844,868.09	12/1/2011	14,760,860.67
12/1/2007	12,377,887.15	12/1/2012	15,425,099.40
12/1/2008	12,934,892.08	12/1/2013	16,119,228.46
12/1/2009	13,516,962.22		

- Additional Bonds Test for Series 2005 Sales and Use Tax Bonds – 125% of average outstanding debt service and proposed additional bonds.
- Average annual debt service on outstanding debt and Revolving Loan Fund (RLF) \$4,158,095.97.
- Coverage 2.73X

Arkansas Soil & Water Revolving Loan Fund (RLF)

City of Fayetteville, Arkansas

Sales and Use Tax Refunding & Construction Bonds

Combined Debt Service

DATE	Series 2005 Final	Series 2007 S&W	TOTAL
12/1/2006	9,337,255.11	-	9,337,255.11
12/1/2007	9,345,102.50	96,335.06	9,441,437.56
12/1/2008	9,351,502.50	582,745.61	9,934,248.11
12/1/2009	9,356,952.50	650,000.00	10,006,952.50
12/1/2010	9,358,652.50	1,344,393.75	10,703,046.25
12/1/2011	9,363,690.00	1,346,400.00	10,710,090.00
12/1/2012	9,364,200.00	1,342,675.00	10,706,875.00
12/1/2013	9,366,200.00	1,343,300.00	10,709,500.00
12/1/2014	9,365,000.00	1,343,031.25	10,708,031.25
12/1/2015	3,645,200.00	1,346,950.00	4,992,150.00
12/1/2016	-	1,344,975.00	1,344,975.00
12/1/2017	-	1,342,106.25	1,342,106.25
12/1/2018	-	1,343,425.00	1,343,425.00
12/1/2019	-	1,343,768.75	1,343,768.75
12/1/2020	-	1,343,137.50	1,343,137.50
12/1/2021	-	1,346,531.25	1,346,531.25
12/1/2022	-	1,343,787.50	1,343,787.50
12/1/2023	-	1,344,987.50	1,344,987.50
12/1/2024	-	1,345,131.25	1,345,131.25
12/1/2025	-	1,344,066.25	1,344,066.25
12/1/2026	-	1,341,925.00	1,341,925.00
12/1/2027	-	1,343,575.00	1,343,575.00
12/1/2028	-	1,343,925.00	1,343,925.00
12/1/2029	-	1,342,975.00	1,342,975.00
12/1/2030	-	670,725.00	670,725.00
Total	\$87,853,755.11	\$28,880,861.92	\$116,734,617.03

Par Amounts Of Selected Issues

Series 2005 Final	72,000,000.00
Series 2007 S&W	20,000,000.00
TOTAL	92,000,000.00

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Stephens Inc.
Public Finance

**Fayetteville Sales and Use Tax Bonds
Series 2005 Revolving Loan Fund (RLF)**

Call Report

(Assumes 4.5% sales tax growth.)

Date	Revenue	Series 2005 Debt Service	RLF Debt Service	Available for Redemption	Series 2005 Calls	RLF Calls	Balance
11/29/2005	0.00	0.00	0.00	0.00	0.00	0.00	109,738.22
12/1/2006	11,844,868.09	9,337,255.11	0.00	2,617,351.20	1,665,000.00	0.00	952,351.20
12/1/2007	12,377,887.15	9,278,497.00	96,335.06	3,955,406.29	3,005,000.00	0.00	950,406.29
12/1/2008	12,934,892.08	9,164,695.60	582,745.61	4,137,857.16	3,185,000.00	0.00	952,857.16
12/1/2009	13,516,962.22	9,042,713.90	650,000.00	4,777,105.48	3,825,000.00	0.00	952,105.48
12/1/2010	14,125,225.52	8,891,394.40	1,344,393.75	4,841,542.85	3,890,000.00	0.00	951,542.85
12/1/2011	14,760,860.67	8,740,853.80	1,346,400.00	5,625,149.72	4,675,000.00	0.00	950,149.72
12/1/2012	15,425,099.40	8,554,400.00	1,342,675.00	6,478,174.11	660,000.00	4,865,000.00	953,174.11
10/1/2013	13,432,690.87	0.00	1,185,187.50	13,200,671.43	0.00	12,195,000.00	1,005,671.43
TOTALS		\$63,009,809.81	\$6,547,736.92		\$20,905,000.00	\$17,060,000.00	\$7,777,996.46

*Anticipated date sales tax revenues are available to pay off these obligations.

Note: Total Series 2005 Principal and Interest - \$83,914,809.81
Total Revolving Loan Fund Principal and Interest - \$23,607,736.92

OVERVIEW

of the

City of Fayetteville
Water & Sewer System Debt

Outstanding System Debt

Issues	Outstanding Debt	Final Maturity
• Water & Sewer System Refunding Revenue Bonds, Series 2002 A	\$1,385,000	August 15, 2008
• Water & Sewer System Refunding Revenue Bonds, Series 2002 B	\$5,855,000	August 15, 2017
• Water & Sewer System Refunding Revenue Bonds, Series 2004	\$5,375,000	August 15, 2012
Total	\$12,615,000	

Debt Service Requirements

- Maximum Annual Debt \$2,376,105
- Average Annual Debt \$1,319,573

Additional Bonds Test

- 130% of Average Annual Debt on all outstanding and proposed debt

Coverage Analysis

Revenue Available for Debt Service (RADS) based on 2004 Audit

Net operating revenues (excluding depreciation expense)	\$3,933,495
Interest income	\$1,014,579
Operating revenues	<u>\$388,313</u>
Total	\$5,336,387

Coverage Calculations

RADS (÷)	\$5,336,387.00
Average Annual Debt Service	<u>\$1,319,573.00</u>
	4.044X

Recommended Approach for System Revenue Financing

- Recommendation – Obtain a loan from the Arkansas Soil and Water Commission's Revolving Loan Fund to produce \$50,000,000 in project funds at an interest rate of 3.25%.
- Requested Action – The Committee's authorization for Staff and Stephens Inc. to proceed with implementing this Comprehensive Plan of Finance.

KUTAK ROCK LLP
DRAFT 12/13/05

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$20,000,000 OF A SALES AND USE TAX CAPITAL IMPROVEMENT BOND, SERIES 2006, BY THE CITY OF FAYETTEVILLE, ARKANSAS FOR THE PURPOSE OF FINANCING A PORTION OF THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING PIPELINES IN CONNECTION WITH A NEW WASTEWATER TREATMENT FACILITY AND RELATED SEWERAGE IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2006 BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE SERIES 2006 BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City Council of the City of Fayetteville, Arkansas (the "City") has determined that there is a great need for a source of revenue to finance the costs of acquisition, construction and equipping of a new wastewater treatment facility and related sewerage improvements to serve the western portion of the City; and

WHEREAS, based on the engineering report (the "Engineering Report") of RJN Group, Inc., Dallas, Texas, which Engineering Report has been reviewed by the City Council, it has been determined that the costs of acquisition, construction and equipping pipelines (the "Project") associated with the new wastewater treatment facility are in excess of \$20,000,000; and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 62 to the Constitution of the State of Arkansas ("Amendment 62") and Arkansas Code Annotated (1998 Repl. & 2005 Supp.) Sections 14-164-301 *et seq.* (as from time to time amended, the "Local Government Bond Act"), to issue and sell its capital improvement bonds to finance the costs of various capital improvements such as those comprising the Project, which capital improvement bonds may be secured by and payable from the receipts of the special city-wide sales and use tax authorized by the Local Government Bond Act; and

WHEREAS, pursuant to the provisions of Ordinance No. 4327 of the City, adopted and approved on August 7, 2001 (the "Election Ordinance"), there was submitted to the qualified electors of the City the question of the issuance of not to exceed \$125,000,000 in aggregate principal amount of capital improvement bonds pursuant to Amendment 62 and the Local Government Bond Act to finance a portion of the wastewater system improvements described in the Election Ordinance, said bonds to be secured by a pledge of and lien upon all of the receipts of a special city-wide sales and use tax levied at the rate of three-quarters of one percent (0.75%) pursuant to the Local Government Bond Act (the "Sales and Use Tax"); and

WHEREAS, at a special election held November 6, 2001, a majority of the qualified electors of the City voting on the question approved the issuance of said capital improvement bonds (and the corresponding levy of the Sales and Use Tax and the pledge of Sales and Use Tax receipts to the payment of the capital improvement bonds); and

WHEREAS, pursuant to such authority, the City has previously issued its \$25,000,000 Sales and Use Tax Capital Improvement Bonds, Series 2002 (the "Series 2002 Bonds"), its \$35,000,000 Sales and Use Tax Capital Improvement Bonds, Series 2004 (the "Series 2004 Bonds"), its \$27,000,000 Sales and Use Tax Refunding and Capital Improvement Bonds, Series 2005A (the "Series 2005A Bonds"), and its \$45,000,000 Sales and Use Tax Capital Improvement Bonds, Series 2005B (the "Series 2005B Bonds"), in order to provide for the funding of various wastewater system improvements, including portions of the Project; and

WHEREAS, the Series 2002 Bonds have been redeemed in full from receipts of the Sales and Use Tax, and the Series 2004 Bonds have been defeased in whole with the proceeds of the Series 2005A Bonds ; and

WHEREAS, as authorized under the provisions of Amendment 62 and the Local Government Bond Act and as approved by the qualified electors of the City, and in order to secure funds necessary to pay a portion of the remaining costs of acquiring, constructing and equipping of the Project, and the legal costs incident to the issuance of a bond to finance the costs of said Project, upon the most favorable terms to the City and the users of the City's wastewater system, the City has made arrangements for the sale of its Sales and Use Tax Capital Improvement Bond, Series 2006 (the "Series 2006 Bond"), in the principal amount of not to exceed \$20,000,000 to the Arkansas Development Finance Authority, as purchaser (the "Bondholder"), at a price of par, which Series 2006 Bond shall bear interest at the rate of two percent (2.00%) per annum, pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement") among the City, the Bondholder and the Arkansas Natural Resources Commission (the "Commission"); and

WHEREAS, the City will also be required to pay to the Arkansas Development Finance Authority, as servicer with respect to the Series 2006 Bond (the "Authority"), a semiannual servicing fee equal to one percent (1.00%) per annum of the outstanding principal amount of the Series 2006 Bond (the "Servicing Fee"); and

WHEREAS, the Series 2006 Bond will be issued and secured by the Sales and Use Tax receipts on a parity basis with the Series 2005A Bonds and the Series 2005B Bonds, except that the Series 2006 Bond will not be secured by the debt service reserve or the municipal bond insurance securing the Series 2005A Bonds and the Series 2005B Bonds; and

WHEREAS, a copy of the Bond Purchase Agreement has been presented to and is before this meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville, Arkansas that:

Section 1. The Project shall be accomplished and shall be a part of the City's wastewater system (the "System"). The accomplishment of the Project shall be under the control

and supervision of, and all details in connection therewith shall be handled by, the City, and the City shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The City shall let all contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as will fully insure completion of the Project in accordance with the Engineering Report so as to fully promote and protect the best interests of the City and the Bondholder.

Section 2. The sale to the Bondholder of the City's Series 2006 Bond in the maximum principal amount of \$20,000,000 at a price of par, such Series 2006 Bond to bear interest at the rate of 2.00% per annum and to be subject to a Servicing Fee of 1.00% per annum and otherwise to be subject to the terms and provisions hereafter in this Ordinance set forth in detail be, and is hereby approved and the Series 2006 Bond is hereby sold to the Bondholder. The Mayor is hereby authorized and directed to execute and deliver the Bond Purchase Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Bond Purchase Agreement. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting with such changes as may be approved by the Mayor, his execution to constitute complete evidence of such approval.

Section 3. The City Council hereby finds and declares that the period of usefulness of the System after completion of the Project will be more than twenty-five (25) years, which is longer than the term of the Series 2006 Bond.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 62 to the Constitution of the State of Arkansas and the Local Government Bond Act, the City of Fayetteville, Arkansas Sales and Use Tax Capital Improvement Bond, Series 2006 (the "Series 2006 Bond"), is hereby authorized to be issued in the total principal amount of not to exceed Twenty Million Dollars (\$20,000,000), the proceeds of the sale of which are necessary to provide sufficient funds to pay a portion of the costs of accomplishing the Project, including, without limitation, legal fees and other necessary expenses incidental to accomplishment of the Project, and to the issuance of the Series 2006 Bond.

The Series 2006 Bond shall bear interest at the rate of two percent (2.00%) per annum and shall be subject to a Servicing Fee of one percent (1.00%) per annum based upon a 360-day year of twelve consecutive 30-day months compounded semiannually. The Series 2006 Bond shall be dated the date of its delivery to the Bondholder. Accrued interest and the Servicing Fee only shall be payable on each April 15 and October 15, commencing April 15, 2006, to and including April 15, 2008. Principal, interest and the Servicing Fee shall be payable on October 15, 2008, and on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

Date	Payment Amount	Interest	Servicing Fee	Principal
October 15, 2008	\$1,164,915.00	\$200,000.00	\$100,000.00	\$ 864,915.00
April 15, 2009	1,164,915.00	191,351.00	95,675.00	877,889.00
October 15, 2009	1,164,915.00	182,572.00	91,286.00	891,057.00

Date	Payment Amount	Interest	Servicing Fee	Principal
April 15, 2010	1,164,915.00	173,661.00	86,831.00	904,423.00
October 15, 2010	1,164,915.00	164,617.00	82,309.00	917,989.00
April 15, 2011	1,164,915.00	155,437.00	77,719.00	931,759.00
October 15, 2011	1,164,915.00	146,120.00	73,060.00	945,735.00
April 15, 2012	1,164,915.00	136,662.00	68,331.00	959,922.00
October 15, 2012	1,164,915.00	127,063.00	63,532.00	974,320.00
April 15, 2013	1,164,915.00	117,320.00	58,660.00	988,935.00
October 15, 2013	1,164,915.00	107,431.00	53,715.00	1,003,769.00
April 15, 2014	1,164,915.00	97,393.00	48,696.00	1,018,826.00
October 15, 2014	1,164,915.00	87,205.00	43,602.00	1,034,108.00
April 15, 2015	1,164,915.00	76,864.00	38,432.00	1,049,619.00
October 15, 2015	1,164,915.00	66,367.00	33,184.00	1,065,364.00
April 15, 2016	1,164,915.00	55,714.00	27,857.00	1,081,344.00
October 15, 2016	1,164,915.00	44,900.00	22,450.00	1,097,565.00
April 15, 2017	1,164,915.00	33,925.00	16,962.00	1,114,028.00
October 15, 2017	1,164,915.00	22,784.00	11,392.00	1,130,739.00
April 15, 2018	1,164,909.00	11,477.00	5,738.00	1,147,694.00

The Series 2006 Bond shall be issued in the form of a single typewritten bond, registered as to both principal and interest, payable to the Bondholder, or registered assigns, as set forth hereinafter in the bond form, and shall be numbered R06-1.

Payment of principal and interest shall be by check or draft mailed by Simmons First Trust Company, N.A., as trustee in connection with the Series 2005A Bonds and the Series 2005B Bonds (the "Trustee"), to the Bondholder at its address shown on the registration books of the City which shall be maintained by the City Clerk as Bond Registrar, without presentation or surrender of the Series 2006 Bond (except upon final payment), and such payments shall discharge the obligation of the City to the extent thereof. The City Clerk or her designee shall keep a payment record and make proper notations thereon of all payments of principal and interest.

Payment of principal and interest shall be in any coin or currency of the United States of America which, as at the time of payment, shall be legal tender for the payment of debts due the United States of America. When the principal of and interest on the Series 2006 Bond has been fully paid, it shall be delivered to the City Clerk and shall be canceled.

Section 5. The Series 2006 Bond shall be executed on behalf of the City by its Mayor and City Clerk, and shall have impressed thereon the seal of the City. In order to pay the principal of and interest on the Series 2006 Bond and the Servicing Fee in connection therewith, there is hereby pledged all of the receipts of the Sales and Use Tax levied by the Election Ordinance. As permitted under the Trust Indenture dated as of November 15, 2005 (the "Indenture"), securing the Series 2005A Bonds and the Series 2005B Bonds, such pledge is made on a parity basis with the existing pledge of receipts of the Sales and Use Tax securing the payment of the Series 2005A Bonds and the Series 2005B Bonds. The levy and collection of the Sales and Use Tax shall continue until such time as the Series 2005A Bonds, the Series 2005B Bonds and the Series 2006 Bond are no longer outstanding or sufficient funds are on deposit with the Trustee under the Indenture to redeem the Series 2005A Bonds, the Series 2005B Bonds and the Series 2006 Bond in full. The City covenants and agrees that all receipts from the Sales and Use Tax will be accounted for separately as special funds on the books of the City, and receipts of said Sales and Use Tax will be deposited and will be used solely as provided herein and in the Indenture. The Series 2006 Bond is not a general obligation of the City but is a special obligation, the principal of and the interest on which, and the Servicing Fee in connection therewith, are secured by a pledge of the receipts from the Sales and Use Tax. The principal of and interest on the Series 2006 Bond shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction.

Section 6. The Series 2006 Bond shall be in substantially the following form, and the Mayor and City Clerk are hereby authorized and directed to make all the recitals contained therein:

**Registered
No. R06-1**

United States of America

**Registered
\$20,000,000**

**State of Arkansas
County of Washington
City of Fayetteville, Arkansas
Sales and Use Tax Capital Improvement Bond
Series 2006**

Registered Owner: ARKANSAS DEVELOPMENT FINANCE AUTHORITY

Principal Amount: TWENTY MILLION DOLLARS

Know All Men By These Presents:

That the City of Fayetteville, Arkansas (the "City") hereby acknowledges itself to owe, and for value received promises to pay to the order of the Arkansas Development Finance Authority, or registered assigns, but solely from the special fund provided therefor as hereinafter set forth, in lawful money of the United States of America, the Principal Amount shown above (or so much of the Principal Amount as should have been advanced as shown on the Record of Payment of Advances attached hereto), and to pay in like coin or currency interest thereon at the rate of 2.00% per annum from the date of each advance. A servicing fee of 1.00% per annum

(the "Servicing Fee") shall also be payable by the City to the Arkansas Development Finance Authority or its successor in the same manner and upon the same dates as interest hereon.

Interest on the unpaid balance of the total principal amount outstanding and the Servicing Fee shall be payable on April 15, 2006, October 15, 2006, April 15, 2007, October 15, 2007, and April 15, 2008. Principal, interest and the Servicing Fee shall be payable on October 15, 2008, and on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

[Here will be inserted the amortization schedule
set forth in Section 4 of this Ordinance.]

Payments of principal and interest due hereon shall be made, except for final payment, without presentation and surrender of this bond, directly to the Registered Owner at its address shown on the registration book of the City maintained by the City Clerk as Bond Registrar, and such payments shall fully discharge the obligation of the City to the extent of the payments so made.

This bond is issued for the purpose of (i) providing financing for a portion of the costs of acquiring, constructing and equipping pipelines associated with a new wastewater treatment facility and related sewerage improvements to serve the western portion of the City (the "Project"), and (ii) paying costs of authorizing and issuing this bond, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Amendment No. 62 to the Constitution of the State of Arkansas ("Amendment 62") and the Local Government Bond Act, codified as Arkansas Code Annotated Sections 14-164-301 *et seq.* (1998 Repl. & 2005 Supp.) (the "Act"), and pursuant to Ordinance No. _____ of the City, duly adopted and approved on the ____ day of December, 2005 (the "Authorizing Ordinance"). Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City and the Registered Owner of this bond.

This bond may be assigned only upon the written approval of the Arkansas Natural Resources Commission (the "Commission"), and in order to effect such assignment, the assignor shall promptly notify the City Clerk by registered mail, and the assignee shall surrender this bond along with a written assignment and written approval of the Commission to the City Clerk for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected on the Payment Record maintained by the City Clerk or her designee) prior to such surrender for transfer.

Following payment in full of the City's Sales and Use Tax Capital Improvement Bonds, Series 2005B (the "Series 2005B Bonds"), the outstanding principal of this bond shall be prepaid by the City from time to time with receipts of the Sales and Use Tax (defined below) in excess of amounts needed to make scheduled payments of the principal, interest and Servicing Fee hereon and on the Series 2005A Bonds. Further, on and after April 15, 2016, this bond may be prepaid at the option of the City from funds from any source, in whole but not in part, at a prepayment price equal to the principal amount outstanding, plus accrued interest and the Servicing Fee to the prepayment date. Notice of any prepayment, whether mandatory or optional, shall be given

to the registered owner of this bond at least 90 days prior to the prepayment date. Such notice shall be in writing mailed to the address of the registered owner of this bond at the address appearing on the bond registration records maintained by the City Clerk.

This bond does not constitute an indebtedness of the City or the State of Arkansas within the meaning of any constitutional or statutory limitation or provision, and, except with respect to receipts generated from the Sales and Use Tax, the taxing power of the City is not pledged to the payment of the principal of and interest on this bond.

This bond is not a general obligation of the City, but is a special limited obligation payable solely from the receipts of a special City-wide sales and use tax levied at the rate of three-quarters of one percent (0.75%) pursuant to the Local Government Bond Act (the "Sales and Use Tax"). In this regard, the pledge of Sales and Use Tax receipts is made on a parity basis with the prior pledge of such receipts securing (i) the City's Sales and Use Tax Refunding and Capital Improvement Bonds, Series 2005A (the "Series 2005A Bonds"), and (ii) the City's Sales and Use Tax Capital Improvement Bonds, Series 2005B (the "Series 2005B Bonds"). Pursuant to the Trust Indenture dated as of November 15, 2005 (the "Indenture"), under which the Series 2005A Bonds and the Series 2005B Bonds are issued and secured, an amount of Sales and Use Tax receipts sufficient to pay principal and interest on this bond as due shall be set aside monthly in a special fund created for that purpose identified as the Bond Fund. Reference is made to the Indenture for a detailed statement of the nature and extent of the security, and the rights and obligations of the City and registered owner of this bond.

This bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on this bond or for any claim based thereon or upon any obligation, covenant, or agreement contained in this bond or in the Authorizing Ordinance against any past, present or future alderman, officer or employee of the City, or any alderman, officer or employee of any successor of the City, as such, either directly or through the City or any successor of the City, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such alderman, officer or employee as such is hereby expressly waived and released as a condition of and consideration for the issuance of this bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State of Arkansas to exist, happen and be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this bond does not exceed or violate any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this bond, as provided in the Authorizing Ordinance.

IN WITNESS WHEREOF, the City of Fayetteville, Arkansas has caused this bond to be executed in its name by the manual signatures of its Mayor and City Clerk, thereunto duly authorize, and its corporate seal to be affixed hereto, all as of the _____ day of _____, 2006.

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____
Mayor

ATTEST:

City Clerk

REGISTRATION CERTIFICATE

Date of Registration	Name of Registered Owner	Signature of City Clerk
	Arkansas Development Finance Authority	

RECORD OF PAYMENT OF ADVANCES

Date of Advance*	Amount of Advance	Total Principal Outstanding	Signature of Vice President of Arkansas Development Finance Authority

*The date of each advance shall be the interest commencement date from which the principal amount of such advance bears interest and from which the Servicing Fee is calculated.

Section 7. All of the terms and provisions of the Indenture, as now in effect, except for those provisions clearly inapplicable hereto or in direct conflict herewith, including, without limitation, those terms and provisions pertaining to the receipt, investment and handling of Sales and Use Tax receipts, are hereby made applicable hereto and incorporated by reference as though fully set forth herein. The effect of the foregoing sentence shall be to continue the applicable provisions in full force and effect until the Series 2006 Bond is paid, or provision made therefor, even after payment of the Series 2005A Bonds and the Series 2005B Bonds.

Section 8. The City shall assure that (i) not in excess of 10% of the proceeds of the Series 2006 Bond is used for Private Business Use (as defined below) if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2006 Bond during the term thereof are, under the terms of the Series 2006 Bond or any underlying arrangement, directly or indirectly secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or are to be derived from payments, whether or not to the City, in respect of property or borrowed moneys used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the proceeds of the Series 2006 Bond are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2006 Bond during the term thereof are, under the terms of the Series 2006 Bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or are to be derived from payments, whether or not to the City, in respect of property or

borrowed money used or to be used for said Private Business Use, then said excess over said 5% of proceeds of the Series 2006 Bond used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project.

The City shall assure that not in excess of 5% of the proceeds of the Series 2006 Bond are used, directly or indirectly, to make or finance a loan to persons other than state or local governmental units.

As used in this Section, "Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

Section 9: Installments of principal and interest on the Series 2006 Bond shall be prepayable prior to maturity as provided in the form of the Series 2006 Bond set forth in Section 6 of this Ordinance.

Section 10. So long as the Series 2006 Bond is outstanding, the City shall not issue or attempt to issue any bonds or other indebtedness having or claimed to be entitled to a pledge of the Sales and Use Tax receipts on a priority or parity basis with the lien thereon securing the Series 2005A Bonds, the Series 2005B Bonds and the Series 2006 Bond.

Section 11. It is covenanted and agreed by the City with the Bondholder and the Commission that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Arkansas and by this Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System and the segregating of System revenues.

The City covenants and agrees that the Bondholder shall have the protection of all the provisions of the Local Government Bond Act, the Indenture and this Ordinance, and that the City will diligently proceed to enforce those provisions to the end of the Bondholder realizing fully upon its security. If the City shall fail to proceed within thirty (30) days after written request shall have been filed by the Bondholder or the Commission, the Bondholder or the Commission may proceed to enforce all such provisions.

If there be any default in the payment of the principal of or interest on the Series 2006 Bond, or if the City defaults in any Bond Fund requirement described in the Indenture or in the performance of any of the other covenants contained in this Ordinance or in the Bond Purchase Agreement, the Bondholder and the Commission (with respect to covenants contained in the Bond Purchase Agreement) may, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State of Arkansas. No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy or remedies herein provided or provided by law, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by law. No delay or omission of the Bondholder to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any default or an acquiescence therein; and every power and

remedy given by this Ordinance to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon. Any costs of enforcement of the Series 2006 Bond or of any provision of this Ordinance, including reasonable attorney's fees, shall be paid by the City. The Bondholder may enforce all rights and exercise all remedies available to the Bondholder in the event the Servicing Fee is not paid when due.

Section 12. When the Series 2006 Bond has been executed by the Mayor and City Clerk and the seal of the City impressed thereon as herein provided, it shall be delivered to the Bondholder upon the payment of all or a portion of the purchase price in accordance with the Bond Purchase Agreement. The purchase price shall be deposited, as and when received, in a special account of the City hereby created in a bank that is a member of the Federal Deposit Insurance Corporation and designated the "2006 Wastewater Construction Fund" (the "Construction Fund"). The moneys in the Construction Fund shall be used for accomplishing the Project, paying expenses incidental thereto and paying the expenses of issuing the Series 2006 Bond approved in accordance with the Bond Purchase Agreement. Payments from the Construction Fund shall be by check or voucher signed by the City Clerk or her designee, and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

When the Project has been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Project and the financing thereof, this fact shall be evidenced by a certificate signed by the City Clerk or her designee, and by the consulting engineer, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged. A copy of the certificate shall be filed with the depository bank, the Bondholder and the Commission.

Disbursements shall be made by the Bondholder for costs of the Project pursuant to written Disbursement Requests as provided in the Bond Purchase Agreement.

Section 13. The terms and provisions of this Ordinance shall constitute a binding contract among the City, the Bondholder and the Commission, and no variation or change in the undertaking herein set forth shall be made while the Series 2006 Bond is outstanding unless consented to in writing by the Bondholder and the Commission.

Section 14. The City covenants and agrees that it will maintain the System in good condition and operate it in an efficient manner and at reasonable cost. The City agrees to keep proper records, books and accounts relating to the operation of the System, which shall be kept separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the operation of the System in accordance with generally accepted government accounting standards. Such books shall be available for inspection by the Bondholder and the Commission, or the agent or the representative of either, at reasonable times and under reasonable circumstances. The City agrees to have these records

audited annually. If requested, the City agrees to furnish the audit report with respect to the System to the Bondholder and the Commission.

The City also agrees that it will furnish to the Bondholder and the Commission on or before 30 days after the end of each fiscal year, if requested, a statement showing (i) total receipts of the Sales and Use Tax during such fiscal year, (ii) the application of such receipts to pay the principal of and interest on the Series 2005A Bonds and the Series 2005B Bonds, and (iii) the application of such receipts to pay the principal of and the interest on the Series 2006 Bond and the Servicing Fee with respect thereto.

Section 15. The City agrees that the Bondholder may pledge the Series 2006 Bond as security for the payment of its wastewater system revolving loan fund revenue bonds (the "ADFA Bonds"), and the trustee or municipal bond insurer for the ADFA Bonds may exercise any rights or remedies available to the Bondholder under this Ordinance or the Bond Purchase Agreement while the Series 2006 Bond is pledged and/or the ADFA Bonds are insured. In addition, the City agrees that while the Series 2006 Bond is pledged and/or the ADFA Bonds are insured, copies of all financial information relating to the City, the System and the Sales and Use Tax receipts shall be furnished to the trustee and/or the municipal insurer for the ADFA Bonds.

Section 16. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Series 2006 Bond and to effect the execution and delivery of the Bond Purchase Agreement, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 17. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Series 2006 Bond.

Section 18. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 19. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

ADOPTED AND APPROVED THIS ____ DAY OF _____, 2005.

APPROVED:

Mayor

ATTEST:

City Clerk

(S E A L)

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

20-Dec-05
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC (AKA: Chestnut Apartments), and located at Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000, located within Block 4, Parker's Plat of Valley View Acres.
Location 2 on attached list and map.

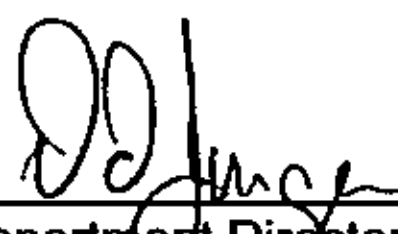
\$9,500.00
Cost of this request
4480-9480-5805.00
Account Number
02133.0305
Project Number

\$ 113,011,587.00
Category/Project Budget
\$ 85,742,915.94
Funds Used to Date
\$ 27,268,671.06
Remaining Balance

Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item ☒

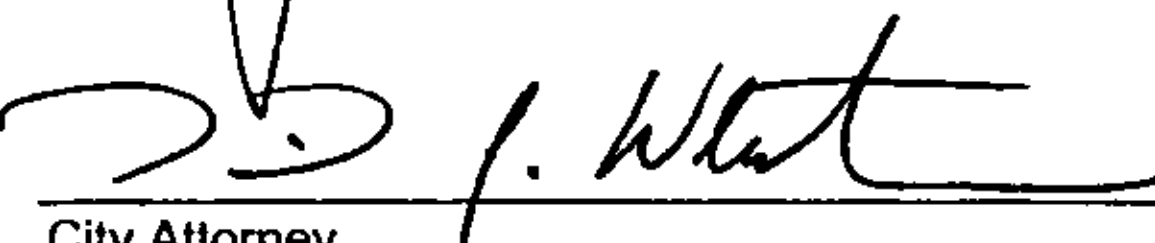
Budget Adjustment Attached ☐


Department Director
2 Dec 05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

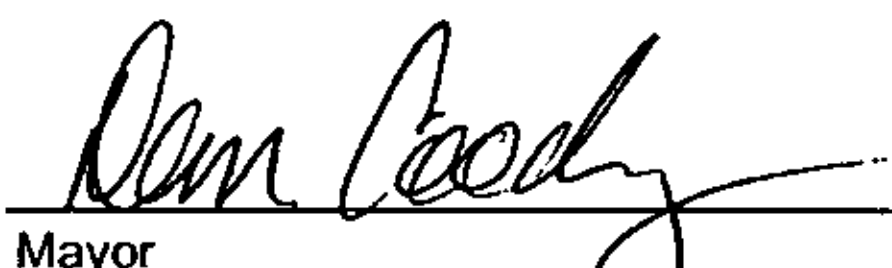

City Attorney
12/5/05
Date

Received in City Clerk's Office



Finance and Internal Service Director
12/5/05
Date

Received in Mayor's Office



Mayor
12/6/05
Date

Comments:

Tabled to 1/3/06 CC mtg 12/30/05

City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water & Wastewater Director



Date: December 1, 2005

Subject: Approval of nine resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of nine related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. Ninety-one tracts were required; 79 have been acquired. The owners of the remaining 12 tracts have all been contacted via mail, telephone, and in person. We have verbal agreement on two, which are not on the proposed condemnation list. The owners of the remaining 10 tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on December 1, 2005 and are included in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the previous twelve months. Given that we are only obtaining an easement, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, and every other utility. It also significantly exceeds that which the City has paid in the past for water/sewer easements. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Others are waiting for their own appraisal information in order to make a counter offer.

Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are already approved within the 2005 WSIP budget.

Attachments: List of Potential Condemnation
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY JOHN D. LINDSEY, LLC.

WHEREAS, the City of Fayetteville and John D. Lindsey, LLC have been
unable to agree on a fair price for the property owned by John D. Lindsey, LLC
that is needed for permanent utility and temporary construction easements
across Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this
property promptly to begin work on the sewer lines that will carry wastewater
flows to the new Westside Wastewater Treatment Plant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby authorizes the City Attorney to file suit to seek court ordered possession
of property located on Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-
000-000, and owned by John D. Lindsey, LLC, that is needed for permanent
utility and temporary construction easements, and to pay into the Registry of the
Circuit Court the sum of \$9,500.00 as just compensation therefor.

PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

WSIP West Line Easement Condemnation List

B. 6
John D. Lindsey, LLC. Condemnation
Page 4 of 6

Map Reference	Description
1.	WL1 – Tract 7 Owner: James E. Lindsey & Nita V. Lindsey, husband and wife; Giles A. Sexton & Elsie D. Sexton, husband and wife; and J. W. Reynolds Lumber Company, a Partnership; all as tenants in common (AKA: Paradise Valley Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-15690-000 and 765-15688-000, Located within SE-25-17-30. Offer Amount: \$24,115 (PUE: \$21,900 for 31,715 sq. ft.; TCE: \$2,215 for 32,013 sq. ft.)
2.	WL2 – Tract 10 Owner: John D. Lindsey, LLC (AKA: Chestnut Apartments) Permanent and Temporary Easements across: Parcel Nos. 765-09481-000, 765-09482-000, and 765-09484-000 Located within Block 4, Parker's Plat of Valley View Acres Offer Amount: \$9,500 (PUE: \$8,750 for 0.35 acre; TCE: \$750 for 0.30 acre)
3.	WL4 – Tract 1 Owner: MSB Properties LLC (1/3 interest) and Nanchar, Inc. (2/3 interest) Permanent Easement (only) across: Parcel No. 765-15773-010, located within E/2-27-17-30. Offer Amount: \$35,600 (PUE only: 0.89 acre)
4.	WL4 – Tract 4 Owner: Commonwealth-Ghosen Theatre Corporation Permanent and Temporary Easements across: Parcel Nos. 765-15813-000 and 765-15815-000, Located within SE-SE-28-17-30 Offer Amount: \$24,400 (PUE: \$22,800 for 0.76 acre; TCE: \$1,600 for 0.52 acre)
5.	WL4 – Tract 6 Owner: Lori S. Taylor (AKA: Razorback Park Golf Course) Permanent and Temporary Easements across: Parcel Nos. 765-16658-011 and 765-24095-000 Located within S/2-NE-32-17-30. Offer Amount: \$24,600 (PUE: \$22,400 for 1.12 acres; TCE: \$2,200 for 1.10 acres)
6.	WL4 – Tract 7 Owner: Crystal Springs Limited Partnership Permanent and Temporary Easements across: Parcel Nos. 765-16658-010 and 765-16658-030 Located within N/2-32-17-30 Offer Amount: \$6,900 (PUE: \$6,400 for 0.64 acre; TCE: \$500 for 0.47 acre)
7.	WL4 – Tracts 9 & 10 Owner: SCB Investments LLC Permanent Easements across: Tract 9: Parcel No. 765-21137-000, Tract 1, Salem Village PUD Tract 10: Parcel No. 765-21138-000, Tract 2, Salem Village PUD Offer Amount – Tract 9: \$6,600 (PUE only: 2,200 sq. ft.) Offer Amount – Tract 10: \$7,500 (PUE only: 2,501 sq. ft.)

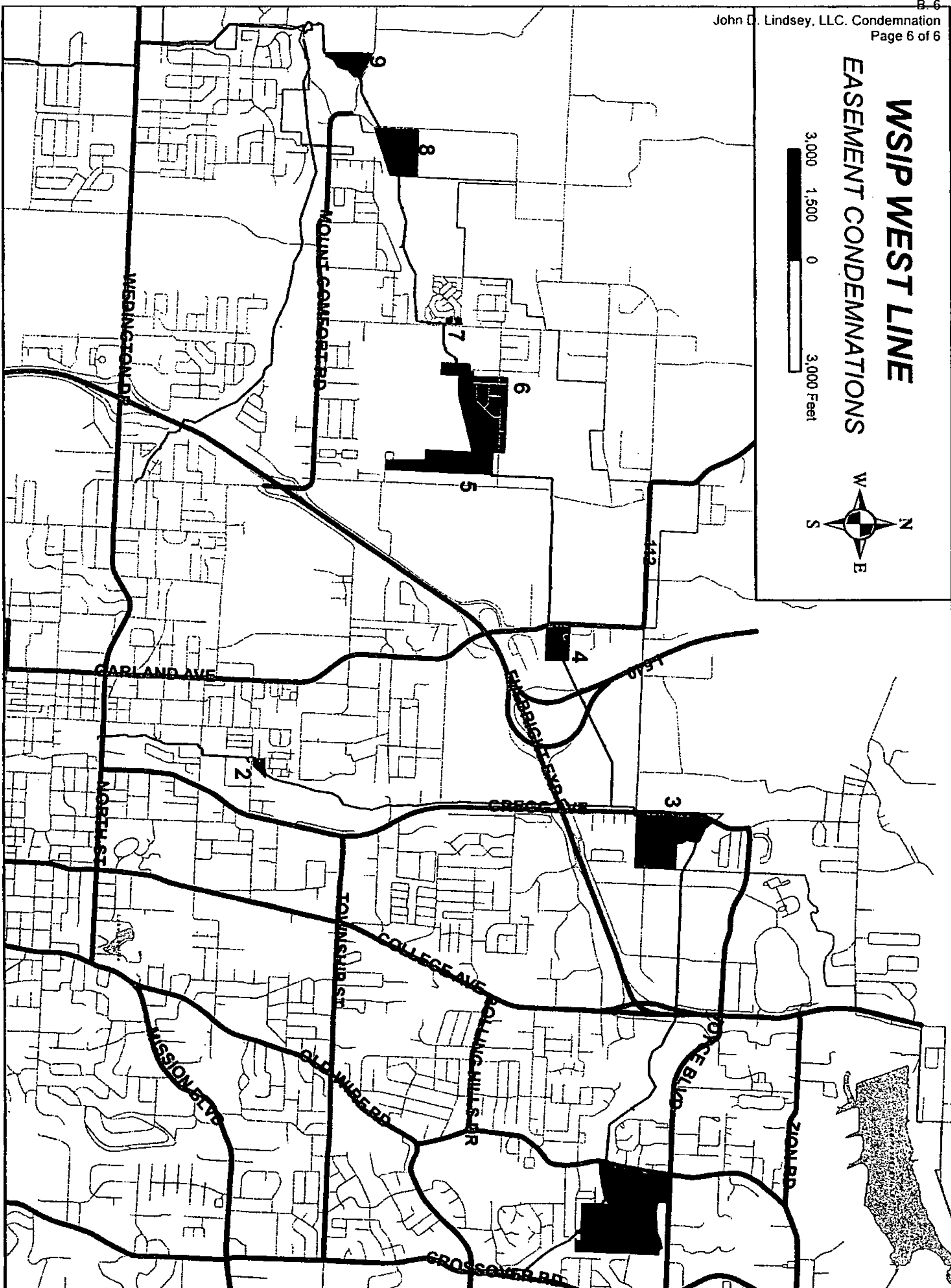
WSIP West Line Easement Condemnation List

B. 6
John D. Lindsey, LLC. Condemnation
Page 5 of 6

Map Reference	Description
8.	WL4 – Tract 15 Owner: Barbara J. Heyliger, Trustee of the Barbara J. Heyliger Trust U/T/D March 8, 1994 Permanent and Temporary Easements across: Parcel No. 001-16808-000, located within SE-SW-31-17-30 Offer Amount: \$11,300 (PUE: \$10,700 for 1.07 acres; TCE: \$600 for 0.58 acre)
9.	WL4 – Tract 17 Owner: Dan Nelson as Trustee of the Dan Nelson Revocable Trust Agreement dated May 8, 1998 Permanent and Temporary Easements across: Parcel Nos. 001-11405-000 and 001-11407-002 Located within the Frl. NW-1-16-31 and Frl. NE-2-16-31 Offer Amount: \$13,800 (PUE: \$12,900 for 0.86 acre; TCE: \$900 for 0.58 acre)

WSIP WEST LINE EASEMENT CONDEMNATIONS

3,000 1,500 0 3,000 Feet



**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

3-Jan-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 05-1776: (Wedington Circle, 404): Submitted by Rob Sharp Architect, Inc. in behalf of Greg House and Steve Mansfield for property located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue. The property is zoned RMF-24, Residential Multi-family-24 units per acre and C-2, Thoroughfare Commercial, and contains approximately 6.13 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District for a mixed use development to include multi-family dwellings, offices, and retail uses.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12-16-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 12-16-05
City Attorney

Original Contract Number: n/a

[Signature] 12-16-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 12/16/05

[Signature] 12/16/05
Mayor Date

Received in Mayor's Office
ENTERED 12/16/05

Comments:

City Council Meeting of January 03, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 15, 2005

Subject: Master Development Plan - Residential Planned Zoning District for Wedington Circle (R-PZD 05-1776)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Master Development Plan - Residential Planned Zoning District (R-PZD) for Wedington Circle, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 6.13 acres. It does not grant development approval.

BACKGROUND

The property consists of approximately 6.13 acres. The applicant requests a rezoning and Master Development Plan approval for the subject property. There is dense tree canopy and 10% slopes located on the undeveloped site. The property is currently zoned RMF-24 and C-2. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

The mixed-use project will include development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way which would require a preliminary and final plat. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of 93% residential use and 7% commercial use. Each development phase (2-7) will be reviewed and approved by the Planning Commission as a large scale development, depending upon how they are submitted.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on December 12, 2005. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The applicant has submitted a traffic study which does not recommend any improvements, however staff is aware of infrastructure that may be detrimentally impacted with this additional development. At the time of development, streets that the

City Council Meeting of January 03, 2006
Agenda Item Number

development will access may need to be improved to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a full street section width will be required on James Street to the intersection of Mount Comfort Road and potential improvements, including sidewalk, to Wedington Drive. Contribution to long-term or installation of short-term improvements to the intersection of Mount Comfort and Garland (Highway 112) has also been discussed, and will be evaluated at the time of development.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1776, WEDINGTON CIRCLE, LOCATED NORTH OF WEDINGTON DRIVE (HWY 112 SPUR) AND WEST OF GARLAND AVENUE, CONTAINING APPROXIMATELY 6.13 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RMF-24, Residential Multi-family, 24 units per acre, and C-2, Thoroughfare Commercial, to R-PZD 05-1776 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 05-1776

SURVEY DESCRIPTION ENTIRE TRACT

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE N02°56'35"E ALONG THE WEST LINE OF SAID 40 ACRE TRACT 566.29 FEET; THENCE LEAVING THE WEST LINE OF SAID 40 ACRE TRACT S87°11'29"E 159.72 FEET TO A SET ½" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE S87°11'29"E 75.00 FEET TO A SET ½" IRON REBAR IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE LEAVING THE CENTERLINE OF SAID DITCH S87°11'29"E 376.68 FEET TO A SET ½" IRON REBAR; THENCE N02°56'35"E 161.54 FEET TO A SET ½" IRON REBAR; THENCE S86°36'35"E 104.60 FEET TO AN EXISTING IRON; THENCE S03°35'34"W 160.02 FEET TO AN EXISTING IRON; THENCE S86°36'12"E 177.56 FEET TO A SET ½" IRON REBAR, SAID POINT BEING N86°36'12"W 2.48 FEET FROM AN EXISTING CONCRETE AT THE SOUTHWEST CORNER OF LOT TEN (10) OF MCCORMICK ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS; THENCE S02°37'04"W 376.94 FEET TO A SET ½" IRON REBAR; THENCE S87°16'02"E 96.96 FEET TO A SET ½" IRON REBAR; THENCE S00°50'04"W 146.31 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE ALONG SAID RIGHT-OF-WAY LINE, THE FOLLOWING BEARINGS AND DISTANCES:

N89°45'20"W	66.60 FEET TO A SET ½" IRON REBAR;
N74°29'27"W	194.26 FEET TO A SET ½" IRON REBAR;
N44°49'05"W	202.42 FEET TO A SET ½" IRON REBAR;
N56°07'42"W	403.52 FEET TO A SET ½" IRON REBAR;
S87°55'48"W	84.68 FEET TO A SET ½" IRON REBAR;

THENCE LEAVING SAID RIGHT-OF-WAY LINE, N02°56'35"E 147.22 FEET TO THE POINT OF BEGINNING, CONTAINING 6.13 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 7, 2005 *Updated December 15, 2005*

R-PZD 05-1776: Residential Planned Zoning District (Wedington Circle): Submitted by Rob Sharp Architect, Inc. in behalf of Greg House and Steve Mansfield for property located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue. The property is zoned RMF-24, Residential Multi-family – 24 units per acre, and C-2, Thoroughfare Commercial, and contains approximately 6.13 acres. The request is to approve a Master Development Plan – Residential Planned Zoning District for a mixed use development to include multi-family dwellings, offices, retail and associated parking.

Property Owner: Mansfield House, LLC

Planner: Suzanne Morgan

Findings:

Property Description: The property consists of approximately 6.13 acres; conflicting information has been provided regarding the size of the property and the applicant is in the process of obtaining an accurate surveyed legal description of the entire subject property. The applicant requests a rezoning and Master Development Plan approval for the subject property. There is dense tree canopy (89%) and 10% slopes located on the undeveloped site. The property is zoned RMF-24 and C-2 which allows for high density and high intensity uses. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Apartment Complex and single family homes	RMF-24
South	Single family homes (across Highway 62)	RSF-4
East	Harps, Arvest Bank	C-2 and C-1
West	Single family homes; apartment buildings	RSF-4; RMF-24

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The project will include development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of is 93% residential use and 7% commercial use. Each development phase (2-7) shall

be reviewed and approved by the Planning Commission as a large scale development, and may require Preliminary/Final plat approval as well if the applicant wishes to subdivide the property.

Process: The purpose of the subject request is to allow a mixture of uses within the entire project and create an urban environment for those who desire to live close to the University of Arkansas and within one mile of the central downtown area. The density proposed is 48 units per acre, with a maximum 296 units and 428 bedrooms. In order to do so, the Planned Zoning District process was recommended. City Council approval of the proposed Master Development Plan would effectively rezone the property based on the plans and information provided. However, it does not give development approval. The applicant is required to return through the preliminary plat, final plat and large scale development process, in this case, in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

The following bulk and area regulations are proposed by the applicant, and are included in detail within the attached submittal:

ZONING CRITERIA: R-PZD 05-1776 (Wedington Circle)

Planning Area 1, 6.13 acres

(A) Proposed Uses.

Permitted Uses

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collection recyclable materials
Unit 34	Liquor Stores
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities

* Conditional use approval by the Planning Commission required.

(B) *Density/Intensity*

Density (dwelling units)	Intensity (square feet nonresidential)
49* Units/Acre: Maximum 296 dwelling units	Maximum 16,576 SF
<i>Anticipated development (not required by zoning):</i> 428 bedrooms 16 Efficiencies 156 1-bedroom 116 2-bedroom 8 3-bedroom	<i>Anticipated development (not required by zoning):</i> Professional Office: 10,000 SF Retail: 6,576 SF

*Staff has modified the density from 48.3 units per acre to 49 units per acre, with the understanding that the maximum number of dwelling units allowable is 296.

(C) *Bulk and area regulations.*

Lot width minimum	Lot area minimum	Land area per dwelling unit
None	None	No Bedroom – 800 SF One Bedroom – 800 SF Two Bedroom – 1,000 SF Three Bedroom or more – 1,200 SF

(D) *Setback requirements.*

Front	Side	Rear
0 feet	0 feet	5 feet

(E) *Height.* Maximum height for all structures is six stories.

(F) *Building area.* Maximum 100% building area.

(G) *Signage.* Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.

(H) *Tree Preservation.* The applicant proposes to potentially preserve approximately 18.4% of the existing canopy on the property, though detailed site work has not been done. The percent canopy required to be preserved in a PZD is 25%. The applicant proposes mitigation of the 6.6% canopy with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy within the AHTD right-of-way to provide a buffer between this development and properties to the south, and to provide additional canopy to the property. Due to the difficult nature of this site to develop, staff is generally supportive of this proposal, and will evaluate the development plans to retain as much canopy as possible.

Water & Sewer: Water is currently available, and will be extended on-site with adequate fire protection (hydrants) and water line size to be provided as required by code. The Fire Department shall review the proposal to ensure adequate access to and within the site and sprinkling with each structure. Evaluations of the water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes better defined. More specifically, the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards. Drainage improvements may include detention and/or improvements to the existing system.

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial) and Garland Avenue to the east (Principal Arterial)

Traffic: Access is proposed to be provided from Wedington Drive, a Principal Arterial, and James Street, a local street. Wedington Circle is constructed to its widest extent and the condition of James Street may need to be improved. At the time of development, streets that the development will access may need to be reconstructed to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a full street section width will be required on James Street to the intersection of Mount Comfort Road and potential improvements, including sidewalk, to Wedington Drive. Contribution to long-term or installation of short-term improvements to the intersection of Mount Comfort and Garland (Highway 112) has also been discussed, and will be evaluated at the time of development. Any curb cut or improvements on Wedington Drive shall require AHTD approval. Access for ladder trucks within this property and especially around the round-about for the Fire Department is a stated concern.

Interior to the project, public and private drives are proposed. Access to future structures will need to meet with Fire Department approval in order to provide adequate fire protection and emergency access in time of need. The slope, width and construction of interior drives to access future structures shall be evaluated at the time of development to ensure proper and safe access is achieved. Based on further evaluations by Planning and Engineering, interior streets may or may not be public.

Street Improvements: Staff recommends that street improvements be evaluated at the time of development for Wedington Drive along the project frontage and on James Street, as well as surrounding intersections. At this time the applicant has submitted a traffic study which does not recommend any improvements, however staff is aware of infrastructure that may be detrimentally impacted with this additional development.

Tree Preservation: Most of the site (88.66%) contains existing tree canopy. The majority of the property is intended to be utilized for development and to do so on slopes of 10% will create a great deal of disturbance. The applicant is preserving the tree canopy in one location on the property. The applicant proposes to preserve approximately 18.4% of the existing canopy on the property, utilizing retaining walls to minimize grading. The applicant proposes mitigation of the

addition required 6.6% canopy with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy within the AHTD right-of-way to provide a buffer between this development and properties to the south. The Urban Forester's evaluation of the proposed tree preservation plan has been included in the staff report, and is cautiously supportive, due to the fact that this is a concept plan only, and further evaluation will need to be made at the time of development.

If developed under the current zoning regulations, 15% tree canopy in a C-2 zoning district and 20% canopy within an RMF-24 zoning district is required to be preserved.

Parks:

- On August 1, 2005 The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for Wedington Circle for 12 single family units and 284 multi-family units.
- Fees are assessed in the amount of \$118,272.
- Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.
- Parks fees are due before signing the final plat or before issuance of building permits allowing development to occur.

Public Comment: The applicants have presented their ideas to two Ward 4 neighborhood meetings. Staff has not received any public comments regarding this project, though the applicant indicates response has been, for the most part, favorable.

Recommendation: Staff recommends forwarding the Master Development Plan – Residential-Planned Zoning District for Wedington Circle (R-PZD 05-1776) to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. *After the Planning Commission meeting on December 12, 2005, staff reevaluated the recommended Lot Area Minimum for this property and modified the recommendation from "8,000 square feet" to "None" finding that to establish a lot area minimum in a dense, urban-type development was unnecessary.*
2. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
3. Approval of this Master Development Plan – Planned Zoning District shall not be construed as development approval. Pursuant to city ordinance, all development of the

property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. Each Planning Area shall be evaluated based on the zoning and development criteria established with the Master Development Plan. Circulation, landscaping, tree preservation, design standards, connectivity, infrastructure improvements and other city policies and ordinances remain applicable with the development review process. The conceptual designs proposed are to be used as a template from which detailed plans are produced; however, it is expected that certain items will change, in accordance with the Planned Zoning District ordinance.

4. Each Phase submitted for preliminary plat or large scale development review shall meet current development criteria at the time of submittal. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
5. If within five (5) years of the City Council adoption of the Master Development Plan, the approved zoning criteria are not in accordance with the goals, policies and guidelines of the City of Fayetteville, the Planning Commission will determine whether the Master Development Plan shall be submitted to the City Council for reconsideration.
6. The applicant currently proposes Tree Preservation less than required within a Planned Zoning District, though all detailed plans have not been proposed. The requirement is 25% tree canopy preservation. The applicant proposes approximately 18.4% tree canopy preservation. Staff recognizes that with the development of construction plans, grading and drainage plans, and utility easement requests the total percent canopy preserved may vary slightly from the 18.4% proposed. A Tree Preservation plan will be evaluated at the time of development submittal. The applicant shall install mitigation trees on site, and the applicant has proposed installation of an additional 14,170 square feet tree canopy with the AHTD right-of-way south of the subject property.
7. All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.
8. All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution. With this ordinance, the Planning Commission is given the determination of whether interior streets are to be public, private or a combination, to be determined at the time of development with a more thorough evaluation.
9. The applicant commissioned a traffic study for this project. Staff will be making the recommendations for street improvements at the time of development. Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting,

sidewalk and other surrounding or adjacent street and intersection improvements as determined to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.

10. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
11. Prior to approval of an ordinance approving this Master Development Plan – Residential Planned Zoning District, the applicant shall submit a written legal descriptions including area in square feet or acres that read clockwise, meets all city ordinance requirements, and is adopted by the GIS division. *The applicant has submitted a revised legal description which is currently being reviewed by the GIS Division and will be approved prior to the recordation of the ordinance adopting the R-PZD.*

Planning Commission Action: Required YES
☐ Approved ☐ Denied ☐ Tabled ☒ FORWARD TO CC
Motion: Trumbo
Meeting Date: December 12, 2005 *Second: Clark*
Vote: 8-0-0
Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature Date

CITY COUNCIL ACTION: yes Required
 Approved Denied
Date: January 03, 2006

Comments: _____

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By Date

Findings associated with R-PZD 05-1776

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed. Staff finds that the project booklet, Master Development Plan and Tree Preservation Plan comply with all applicable statutory provisions. However, some minor information on the plat and in the booklet are in need of further clarification of commitments and the standard items such as a zoning comparison chart, legal description, graphic scale, land use table, etc. must be added to the plan for it to comply. Conditions regarding these edits have been included.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Evaluations for water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes clearer. More specifically, the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards. Drainage improvements may include detention and/or improvements to the existing system. Fire and emergency response time is adequate and estimated at three (3) minutes or less, though improvements to existing street infrastructure may be necessary at the time of development, and is indicated in the conditions of approval.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, attempts to create a more dense living environment. It is located in an area with proximity to the University of Arkansas for future residents who attend the University to walk and it is near pick-up areas for the transit system. Although multi-modal opportunities are present, it is anticipated that traffic will increase a certain degree for the proposed uses, and street

improvements accessing the property will need to be evaluated and determined at the time of development. All but the western portion of the site is proposed for development, with a swath of property to the west proposed to be reserved for tree preservation.

The existing zoning of the vacant property is RMF-24 and C-2 and is one of the last remaining properties undeveloped in this area. Surrounding properties are commercial to the west, with the Harps food store adjacent to the subject property, multi-family to the north, and single family residential to the west and south. The applicant requests development of the subject property just under 49 units per acre in addition to 16,576 square feet of non-residential development. Staff is in supportive of a rezoning to create a mixed use development of this property as it will serve as a transition between existing commercial, multi-family, and single family residential uses. It is important, though, to establish a development that will be sensitive to the existing infrastructure, surrounding developments, topography, and tree canopy.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is a steep hillside with 10% grade and 88.66% tree canopy. The applicant tentatively proposes preservation of 18.4% tree canopy. An exhibit was presented for this proposal. The Urban Forester's initial investigation of this proposal found that to preserve one concentrated area may be the only way of allowing preservation and development on a site with 10% or more grade due to the fill required. Specific recommendations from the Urban Forester have been included within the staff report.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed development will allow for twice the density that the current zoning would allow. The police and fire departments have reviewed this request and their evaluations are included in and attached to this report. The applicant also submitted a traffic report for the proposed development. The findings and recommendations of this report are attached. In summary, the report finds that the transportation system is sufficiently built-out at this time to accommodate the project traffic in peak hours with little or no effect on traffic and intersection operation. In the future, the increase of trips generated from this development will drop the LOS levels of three intersections. Though the infrastructure is built out, and one of the adjacent streets is a State Highway, at the time of development, the existing streets will be evaluated by City staff and requirements made by the Planning Commission as to the extent of improvements necessary for development approval.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural standards for the proposed structures have been submitted in detail under Appendix A of the project booklet. Architectural standards will be evaluated at the time of development to ensure all buildings proposed adhere to the context of the neighborhood surroundings.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein incorporates an acceptable level of compatibility with surrounding residential and commercial uses. Two access points are proposed to the site. Parking is proposed both on the street and underground, thereby avoiding large areas of asphalt but still utilizing the property for structures. To preserve less than the required amount of tree canopy for such an intense use of the property is not in compliance with the purposes and intent of the Planned Zoning District, but the applicant has offered a commitment to replant the tree canopy lost and plant an additional 14,170 sq. ft. (or 65 trees) within the AHTD right-of-way to replace canopy on or near the site. The proposed development is, however, in an appropriate location for the residential, retail, and office uses proposed.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part

of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required at this time; with the development of the site being primarily residential, it is not required to screen from adjacent commercial or residential uses. The applicant has proposed screening from this development to the east and has proposed compliance with the landscaping requirements of the Unified Development Code.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress interior to the project shall be evaluated and required to be constructed with the preliminary plat or large scale development that will allow for the construction of City streets and dedication of right-of-way. Lots may be created with the filing of a final plat and each tract shall be reviewed separately for development through a large scale development or preliminary/final plat where townhomes are proposed. New and existing public streets directly affected by the traffic generated from this project shall be improved to an acceptable standard, as determined by the Planning Commission, and interior private drives shall be constructed to provide for safe and adequate access to all structures for emergency vehicles.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the proposed uses shall apply. The parking ratio for retail use used for parking calculations in the project booklet is incorrect and needs to be modified, though the parking requirements are still being met. All parking areas shall conform to City of Fayetteville standard specifications, unless approved otherwise.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development provides open space around the boundary of the development and for Tree Preservation areas. Staff recommends a significant natural tree and vegetative buffer to be retained on the property to act as a buffer from adjacent properties.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be evaluated at the time of development.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to

existing City standards and shall be dedicated as a public street.

- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution. The Planning Commission shall determine, in an evaluation of the various waivers necessary to construct a street from Wedington to James, whether a public or private street is in the best interest of the City, at the time of development. This shall occur as part of the PZD process, even though the number of residential units served is obviously greater than the 40 allowed by ordinance.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The applicant shall be required to comply with this condition of approval as the proposed development contains residential and nonresidential development.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: Most of the site (88.66%) contains existing tree canopy. It is atypical to receive a tree preservation plan with a project of this nature; however, the applicant found that it would not be feasible to develop the property and commit at this time to preserve 25% of the tree canopy. The applicant proposes to preserve approximately 18.4% of the existing canopy on the property. The applicant proposes mitigation of the required 6.6% tree canopy (approximately 81 trees) with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy (approximately 65 trees) within the AHTD right-of-way to provide a buffer between this development and properties to the south. The Urban Forester's evaluation of the proposed tree preservation plan has been included in the staff report.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The proposed architectural standards for the proposed structures are very detailed and encompass many guidelines recommended by the Downtown Master Plan. The Planning Commission shall ensure that these guidelines are being met for each structure, commercial and residential, within the development.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting

of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal is primarily residential in nature, with 93% of the total building area of the project devoted to such use. The 7% commercial/office portion of the development is a small portion and intended for use by the residents of the development and located on Wedington Drive to attract a wider population. The flexibility requested for this development is to allow commercial uses where not currently permitted by the zoning regulations and double the density currently allowed. The uses proposed are compatible with the multi-family use to the north and commercial uses to the east. Providing a permanent buffer for tree preservation between this project and the single family residences to the west will be beneficial as screening. The proposal will not impact future developments in this area, but it will impact the existing developments, primarily in terms of the traffic generated. Less than the minimum required natural features (tree canopy) are proposed to be preserved and with the topography of the property, a great amount of fill will be required to develop the site.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1776, with one Unique Planning Area. The project is proposed to be developed in seven Phases. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- a. *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential

developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- i. To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
- ii. To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- iii. To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- iv. To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- v. To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed use is a mixture of uses containing residential and commercial/office uses. A general commercial rezone is not appropriate in this area, but the incorporation of some commercial/office uses within a residential development is appropriate based on the location of the site. The increase in density from 24 units to approximately 49 units per acre is compatible with the surrounding multi-family, single, family, and commercial development. The project would encourage the efficient use of public transportation by placing higher density in proximity to potential use of those services. This project is sited near already-improved infrastructure; thereby minimize excessive demands on unimproved streets. Finally, this PZD provides a variety and flexibility in land development by providing high density residential near essential services (public transit, grocery, university, and indirect interstate access).

(2) *Uses.*

Permitted

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations

Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional

Unit 2	City-wide uses by conditional use permit
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collection recyclable materials
Unit 34	Liquor Stores
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities

FINDING: See Zoning Criteria Chart above for the uses permitted by right and by conditional use as proposed by the applicant.

- (2) All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.
- (4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from RMF-24, Residential Multi-family – 24 units per acre, and C-2, Thoroughfare Commercial, to R-PZD 05-1776, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area and Community Commercial in the far southeast corner of the property. Rezoning this property to R-PZD 05-1776, with the associated Master Development Plan, is consistent with the land use plan for this area. The proposed plan, commitment and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place as it provides a live/work environment for the residences of Fayetteville. The property will provide a large residential center in walking distance to the University of Fayetteville and in close proximity to downtown Fayetteville, as well as other essential public services.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed in order to develop anything other than single family or multi-family at 24 units per acre on the property.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will cause an increase in peak traffic. Though street improvements are anticipated, much of the off-site infrastructure to be utilized by this development is improved. The proximity of this development to the school, university, a grocery store, public transit, indirect access to I-540, and the downtown entertainment district will allow many of the residences to choose alternative means of transportation.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density in this developed area and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Population density will be increasing two-fold. Staff finds that an increased density in this location is appropriate and will be a beneficial in-fill development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

**FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS**

**113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469**

TO: Suzanne Morgan, Planner
FROM: Alison Jumper, Park Planner
DATE: October 17, 2005
SUBJECT: Parks & Recreation Tech. Plat Review Comments

Meeting Date: October 19, 2005
Item: PZD 05-1776 (Wedington Circle), 404
Park District: NW
Zoned: RMF-24
Billing Name & Address: Mansfield House

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	<u>12</u> @ \$555 per unit = \$6660
Multi Family	_____ @ .017 acre per unit = _____ acres	<u>284</u> @ \$393 per unit = \$111,612
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- On August 1, 2005 The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for Wedington Circle for 12 single family units and 284 multi-family units.
- Fees are assessed in the amount of \$118,272.
- Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.
- Parks fees are due before signing the final plat.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: City of Fayetteville City Council
From: Sarah K. Patterson, Urban Forester
Date: December 6, 2005

ITEM #: PZD 05-1776: Planned Zoning District (Wedington Circle)

TREE PRESERVATION PLAN

1. This project does not meet the minimum canopy requirements for Chapter 167 Tree Preservation and Protection in the Unified Development Code. Projects using the PZD zoning are required the most restrictive percent of preserved canopy. Currently this number is 25%. Although the developer is proposing only 18.4% preservation, all mitigation will be planted on site (approximately 81 trees) and additional plantings (approximately 65 trees) will take place along the Wedington Drive right of way and in the area between development and Harps Grocery Store.
2. Staff recommends approval of the proposed Tree Preservation Plan with the conditions that every possible attempt will be made to fit all mitigation trees on-site, to include additional vegetative buffers for sound and sight along Wedington Drive, and that retaining walls and preventative measures will be taken to preserve as many trees on the site affected by grade changes.
3. A full Tree Preservation Plan will be required for this project at the time of Large Scale Development. This plan should include all requirements as specified in Chapter 167 of the Unified Development Code. A separate Landscape/Mitigation Plan will also be required at this time. Please note that the recommended spacing

for most tree species is approximately 30 feet. It is important this distance is factored in at time of planting to plan for the future growth of the canopies.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 West Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

501-575-8206

To: Wedington Circle

Thru: Jeremy Pate, Development Coordinator
Suzanne Morgan, Development Coordinator

From: Brent K. O'Neal, P.E. Staff Engineer

Date: October 21, 2005

Re: Master Design Plan for Wedington Circle

Development: PZD Wedington Circle

Evaluations for water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes clearer. More specifically: the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards, drainage improvements may include detention and/or improvements to the existing system.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: October 18, 2005
To: Suzanne Morgan
From: Dale Riggins
Subject: PZD Development's

Suzanne,

After talking with Chief Johnson and Fire Marshall Kyle Curry, we all agree that the type of development that is being proposed on Wedington Drive, Wedington Circle, will have no adverse affects on our ability to manage a fire or emergency incident within this type of complex.

We do have a couple of concerns regarding this and future developments of this type:

- ✓ The planners should work closely with the Fire Marshall on the type of sprinkler systems installed in this type construction to make sure it will withstand the pressure needed to adequately supply a hand-line to the top floor. And all fire department connections need to be facing the road for easy access.
- ✓ The circle in the middle of the complex needs to be addressed in regards to the turning radius of our largest piece of apparatus. This may require the engineers to get the wheel base measurements of our apparatus and making sure there will be adequate room to maneuver the apparatus.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 18, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **Wedington Circle PZD** would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,


Captain William Brown
Fayetteville Police Department

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: MDP-R-PZD05-1776 ^{Wedington Circle} Return by: _____
Parcel: _____

Plat Page#: _____
Section: _____
Township: _____
Range: _____

Current Zoning: _____
Proposed Zoning: _____

Submittal: 1st 2nd 3rd

Closure error / comments:

Need written legal for overall area

Need 2 state plane coordinates

Missing legal description for parcel #765-13756-000

Shape file created ~~by~~ from CAD file

Has the applicant been contacted with requested revisions: YES NO

Checked by: TJ

Date shape file was created: 11/17/2005

Engineer's Note:

Survey data and descriptions were provided by Alan Reid and Assoc. (118 S. College, Fayetteville, AR) for Mansfield Properties, [Project # 04176BNDRY], Date 5/24/04

SURVEY DESCRIPTION PARCEL # 765-13771-000

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE N02°5'35"E ALONG THE WEST LINE OF SAID 40 ACRE TRACT 566.29 FEET; THENCE LEAVING THE WEST LINE OF SAID 40 ACRE TRACT S87°11'29"E 159.72 FEET TO A SET ½" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE S87°11'29"E 75.00 FEET TO A SET ½" IRON REBAR IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE ALONG THE CENTERLINE OF SAID DRAINAGE DITCH; THE FOLLOWING BEARINGS AND DISTANCES:

S08°43'02"E	5.56 FEET;	S04°05'20"E	20.01 FEET;
S00°12'31"W	31.43 FEET;	S03°35'06"W	26.68 FEET;

S20°04'24"E	35.75 FEET;	S50°01'45"E	15.18 FEET;
S03°22'11"E	29.58 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE);	THENCE N56°07'42"W	
ALONG SAID RIGHT-OF-WAY 28.87 FEET TO A SET ½" IRON REBAR; THENCE S87°55'48"W			
ALONG SAID RIGHT-OF-WAY 84.68 FEET TO A SET ½" IRON REBAR; THENCE LEAVING			
SAID RIGHT-OF-WAY, N02°56'35"E 147.22 FEET TO THE POINT OF BEGINNING,			
CONTAINING 0.28 ACRES (12, 368.6 SQUARE FEET), MORE OR LESS, WASHINGTON			
COUNTY, ARKANSAS.			

SURVEY DESCRIPTION PARCEL # 765-13776-000

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT; SAID POINT BEING AN EXISTING ALUMINUM ARKANSAS STATE SURVEY MONUMENT; THENCE N02°37'04"E ALONG THE EAST LINE OF SAID 40 ACRE TRACT 190.00 FEET; THENCE LEAVING THE EAST LINE OF SAID 40 ACRE TRACT N87°16'02"W 341.25 FEET, THENCE S00°50'04"W 3.17 FEET TO A SET ½" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE S00°50'04"W 146.31 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE N89°45'20"W ALONG SAID RIGHT-OF-WAY 66.60 FEET TO A SET ½" IRON REBAR; THENCE N74°29'27"W ALONG SAID RIGHT-OF-WAY 35.87 FEET TO A SET ½" IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY, N02°37'04"E 141.19 FEET TO A SET ½" IRON REBAR; THENCE S87°16'02"E 96.96 FEET TO THE POINT OF BEGINNING, CONTAINING 0.33 ACRES (14570.1 SQUARE FEET) MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

SURVEY DESCRIPTION PARCEL # 765-13775-000

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION EIGHT (8), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING AT A SET ½" IRON REBAR WHICH IS N86°36'12"W 2.48 FEET FROM THE SOUTHWEST (SW) CORNER OF LOT TEN (10) OF MCCORMICK ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE RECORDS OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS; THENCE S02°37'04"W 518.13 FEET TO A SET ½" IRON REBAR ON THE NORTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE); THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING BEARINGS AND DISTANCES:

N74°29'27"W 158.39 FEET; TO A SET ½" IRON REBAR

N44°49'05"W 202.42 FEET; TO A SET ½" IRON REBAR

N56°07'42"W 374.65 FEET; TO A SET ½" IRON REBAR

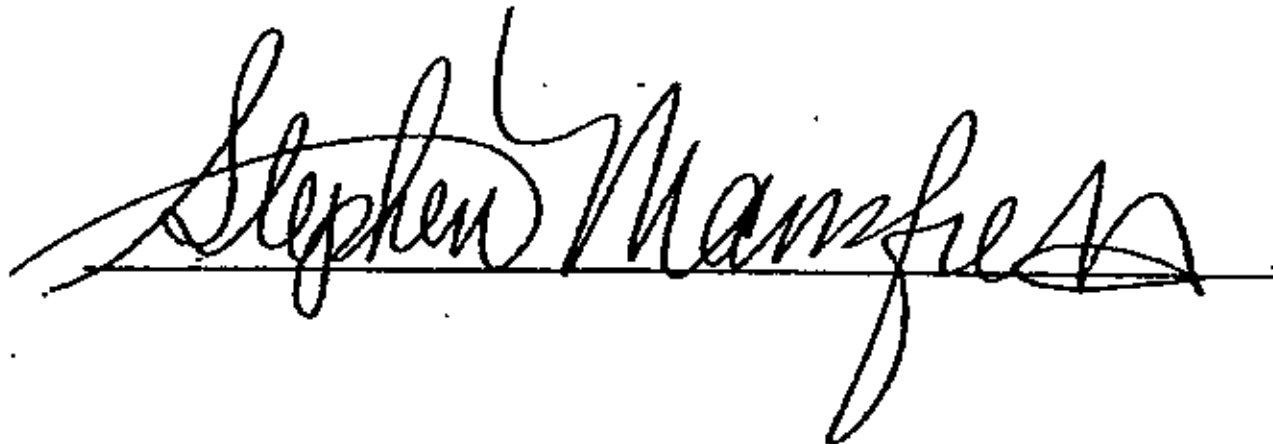
BEING IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE LEAVING SAID RIGHT-OF-WAY ALONG THE CENTER LINE OF SAID DITCH THE FOLLOWING BEARINGS AND DISTANCES:

N03°22'11"W 29.58 FEET; N50°01'45"W 15.18 FEET;

N20°04'24"W 35.75 FEET; N03°35'06"E 26.68 FEET;

N00°12'31"E 31.43 FEET; N04°05'20"W 20.01 FEET;

N08°43'02"W 5.56 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE CENTER LINE OF SAID DITCH S87°11'29"E 376.68 FEET TO A SET ½" IRON REBAR; THENCE S87°27'30"E 102.79 FEET TO AN EXISTING IRON; THENCE S86°36'12"E 177.56 FEET TO THE POINT OF BEGINNING, CONTAINING 6.13 ACRES (267,065.2 SQUARE FEET), MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.



Transportation Report for Wedington Circle, Fayetteville, Arkansas

Findings and Recommendations

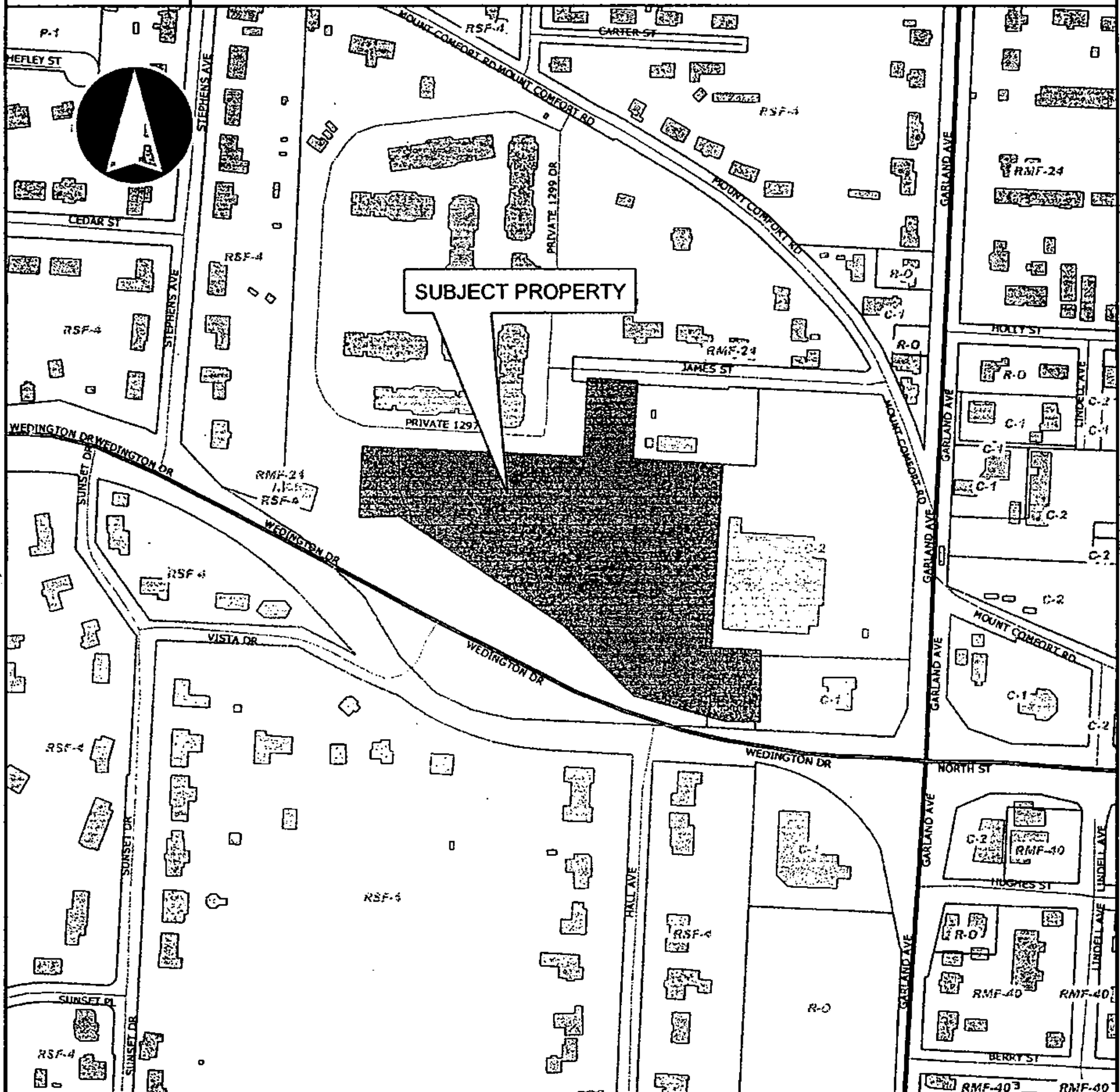
Wedington Circle is located on one of the few remaining vacant parcels in the northwest sector of Fayetteville. The transportation system appears to be sufficiently built-out at this time to accommodate the project traffic in the peak hours with little or no effect on traffic and intersection operation.

For the future, using 2007 as the target date, the baseline traffic growth indicates while arterial LOS will drop slightly along Wedington, modifications to the traffic signal system may actually improve traffic flow slightly. The addition of the project trips does not present a problem using the spreadsheet analysis. The *Synchro* analysis indicates that additional project trips will take the intersection of North and Leverett from LOS B to LOS C, the intersection of North and Gregg from LOS C to LOS D, and the arterial LOS northbound Garland and eastbound North Street from D to E. However, the primary intersection at Wedington and Garland, as well as the passage south along Garland to the University of Arkansas, appears to have sufficient capacity to accommodate Wedington Circle trips now and in the immediate future.

RPZD05-1776

WEDINGTON CIRCLE

Close Up View



Legend

- Overlay District
- 100 YEAR
- 500 YEAR
- FLOODWAY
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD05-1776
- vector.GDB.Footprint_2004

0 125 250 500 750 1,000 Feet

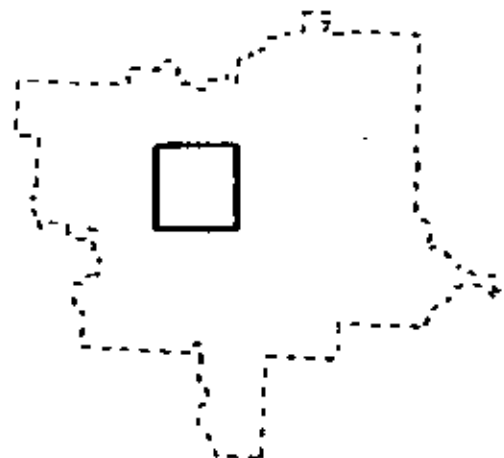
RPZD05-1776

WEDINGTON CIRCLE

One Mile View



Overview



Legend

Subject Property
RPZD05-1776

Boundary

Planning Area
Overlay District
Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-Jan-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 05-1796: (Park West, 208): Submitted by Tracy Hoskins with Paradigm Development for property located at Hwy 112 east of Deane Solomon Road. The property is zoned R-A, Residential-Agricultural and RSF-4, Residential Single Family 4 units per acre, and contains approximately 139.45 acres. The request is for approval of a proposed Master Development Plan Residential Planned Zoning District with a maximum of 856,000 s.f. commercial space and 1,712 dwelling units proposed.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

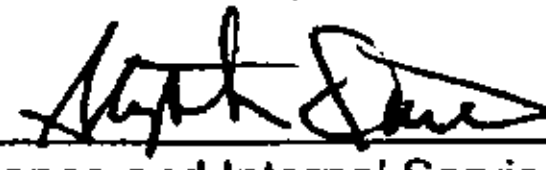

Department Director 12.16.05
Date

Previous Ordinance or Resolution # n/a

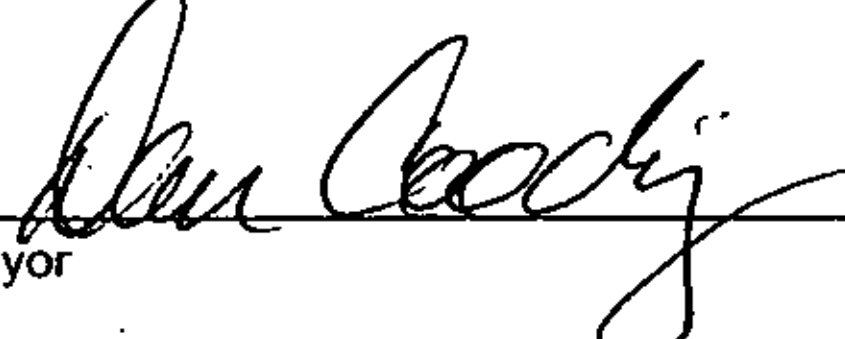
Original Contract Date: n/a


City Attorney 12-16-05
Date

Original Contract Number: n/a


Finance and Internal Service Director 12-16-05
Date

Received in City Clerk's Office
ENTERED 12/16/05


Mayor 12/16/05
Date

Received in Mayor's Office
ENTERED 12/16/05

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: December 15, 2005

Subject: Master Development Plan - Residential Planned Zoning District for Park West
(R-PZD 05-1796)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Master Development Plan - Residential Planned Zoning District (R-PZD) for Park West, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 140 acres located south and west of Hwy 112. The proposal consists of a fifteen Planning Areas to be developed in several phases.

BACKGROUND

The property consists of several parcels totaling approximately 140 acres. With the exception of a few single family rental homes and agricultural accessory structures, the property is vacant. The property fronts Hwy 112 to the north and east and Deane Solomon Road to the west. Though there is existing tree canopy on the property, it is concentrated in several small locations on the property. There are also existing wetlands on the property, as identified by the Army Corps of Engineers. The property is currently zoned R-A and RSF-4. To the south, the property is being developed as Springwoods C-PZD, a development of residential and commercial properties. Also to the south is the approved Sam's Club. Property to the north is the home of Bio-Tech Pharmacal facility. North of Hwy 112 property is being developed as a single family subdivision. Property east of the development is developed for single family use.

The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The proposal includes a maximum of 1,712 dwelling units and 856,000 square feet of non-residential space. A total of fifteen (15) separate planning areas are proposed, each of which has identified uses: Single family residential, townhome/single family attached, plaza condominium, courtyard multi-family, multi-family residential, four preserve/botanical/detention areas, a civic lawn, two mixed-use districts, neighborhood commercial, thoroughfare commercial and park dedication. Attached to the staff report is a Zoning Criteria Chart for each Planning Area that has been approved by the Planning Commission (see Exhibit B).

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on December 12, 2005. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The applicant agreed with the Planning Commission's request to meet with the Crystal Springs Neighborhood prior to the first reading of this item at the City Council meeting.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A MASTER DEVELOPMENT PLAN RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1796, PARK WEST, LOCATED AT HWY 112 EAST OF DEANE SOLOMON ROAD, CONTAINING APPROXIMATELY 139.45 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential-Agricultural and RSF-4, Residential Single Family, 4 units per acre, to R-PZD 05-1796 as shown in Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 05-1796

FORMERLY THE "MIKE AND BRENDA PRICE PROPERTY"

A PART OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING IN ARKANSAS HIGHWAY #112; THENCE SOUTH 01° 21' 02" WEST ALONG THE WEST LINE OF SAID 40 ACRE TRACT 60.40 FEET TO AN EXISTING IRON ON THE SOUTH RIGHT-OF-WAY LINE OF SAID HIGHWAY FOR THE TRUE POINT OF BEGINNING; THENCE SOUTH 88° 44' 20" EAST ALONG SAID RIGHT OF WAY 636.06 FEET TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT OF WAY SOUTH 00° 40' 42" EAST 565.86 FEET TO AN EXISTING IRON; THENCE SOUTH 01° 01' 05" WEST 179.25 FEET TO AN EXISTING IRON AT A FENCE CORNER; THENCE SOUTH 01° 01' 05" WEST 161.92 FEET TO A SET ½" IRON REBAR ON THE PROPOSED NORTH RIGHT OF WAY LINE OF AN UNDEVELOPED STREET AS SHOWN ON THE MASTER STREET PLAN FOR FAYETTEVILLE, ARKANSAS; THENCE NORTH 88° 33' 19" WEST ALONG SAID PROPOSED RIGHT OF WAY LINE 658.07 FEET TO A SET ½" IRON REBAR ON THE WEST LINE OF SAID 40 ACRE TRACT; THENCE NORTH 01° 21' 02" EAST 904.60 FEET TO THE POINT OF BEGINNING, CONTAINING 13.52 ACRES, MORE OR LESS.

FORMERLY THE "GRAVES PROPERTY"

A PART OF THE E1/2 OF THE SW1/4 AND A PART OF THE W1/2 OF THE SE1/4, ALL IN SECTION 28, T-17-N, R-30-W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF THE NE1/4 OF THE SW1/4 OF SAID SECTION 28, AND CONTINUING S 87°14'29" E ALONG THE NORTH BOUNDARY OF SAID 40 ACRE TRACT 634.01 FEET, AND THENCE S 00°11'32" W, 628.47 FEET TO AN EXISTING STEEL FENCE POST, AND THENCE S 03°03'56" W, 178.40 FEET TO AN EXISTING IRON PIN, AT A FENCE CORNER, SAID POINT BEING THE POINT OF BEGINNING; THENCE S 87°12'12" E, 1927.53 FEET TO AN EXISTING IRON PIN ON THE WESTERLY RIGHT-OF-WAY OF ARKANSAS HIGHWAY 112, SAID RIGHT-OF-WAY BEING 55 FEET WEST OF SAID HIGHWAY CENTERLINE; THENCE ALONG SAID RIGHT-OF-WAY, S 02°43'05" W, 1453.41 FEET, S 02°02'13" W, 63.14 FEET, S 00°11'37" W, 51.97 FEET, S 03°04'20" E, 40.08 FEET, S 07°04'17" E, 55.68 FEET, S 11°50'57" E, 58.74 FEET, S 15°35'06" E, 71.32 FEET, AND S 18°14'06" E, 15.95 FEET TO A POINT ON THE EASTERLY BOUNDARY OF SAID 80 ACRE TRACT; THENCE LEAVING SAID RIGHT-OF-WAY S 02°32'41" W, 26.08 FEET TO A FOUND ALUMINUM CAPPED IRON PIN AT THE SE CORNER OF THE SW1/4 OF THE SE1/4 OF SAID SECTION 28; THENCE N 87°09'05" W, 1322.12 FEET TO AN EXISTING FENCE

CORNER AT THE SOUTH QUARTER CORNER OF SAID SECTION 28;
THENCE N 87°21'56" W, 1316.30 FEET TO AN EXISTING IRON PIN AT THE
SW CORNER OF THE SE 1/4 OF THE SW1/4 OF SAID SECTION 28; THENCE
N 02°31'02" E ALONG THE WEST BOUNDARY OF THE E1/2 OF THE SW1/4,
1672.02 FEET TO A SET IRON PIN, LOCATED 965.00 FEET SOUTH OF THE
NW CORNER OF THE NE1/4 OF THE NW1/4; THENCE LEAVING SAID WEST
BOUNDARY S 86°57'53" E, 656.27 FEET TO A SET IRON PIN; AND THENCE
N 03°03'56" E, 161.92 FEET TO THE POINT OF BEGINNING, CONTAINING
106.15 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY
ARKANSAS. SUBJECT TO: EASEMENTS OF RECORD DESCRIBED AS
INSTRUMENT # 9344456 & 2002 084864, AND OTHER DOCUMENTS OF
RECORD NOT SHOWN HEREON.

FORMERLY THE "VAWTER PROPERTY"

A PART OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER
(SW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17)
NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4 OF SAID
SECTION 28-17-30, THENCE S87°14'29"E 1320.14 FEET TO A POINT ON
THE EAST LINE OF THE WEST HALF (W1/2), SOUTHWEST QUARTER
(SW1/4) SAID SECTION, . THENCE S02°31'02" W, 34.99 FEET ALONG SAID
EAST LINE TO THE SOUTHERN RIGHT-OF-WAY ARKANSAS HIGHWAY NO.
112 AND THE POINT OF BEGINNING. THENCE CONTINUING ALONG SAID
EAST LINE S 02°31'02" W, 1298.63 FEET; THENCE N87°16'08"W 600.60
FEET TO THE EAST RIGHT-OF-WAY OF WASHINGTON COUNTY ROAD NO.
890, THENCE ALONG SAID RIGHT-OF-WAY N10°49'52"E 321.00 FEET,
THENCE WITH SAID RIGHT-OF-WAY N07°55'08"W, 284.30 FEET, THENCE
WITH SAID RIGHT-OF-WAY N25°41'08" W, 166.10 FEET, THENCE WITH
SAID RIGHT-OF-WAY N14°35'08"W 576.59 FEET TO THE SOUTHERN
RIGHT-OF-WAY OF ARKANSAS HIGHWAY NO. 112, THENCE ALONG SAID
RIGHT-OF-WAY S87°35'48"E 853.75 FEET TO THE POINT OF BEGINNING,
ALL LOCATED IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
AND CONTAINING 19.860 ACRES, MORE OR LESS.

Exhibit B

The following pages include the requirements for each Planning Area as approved by the Planning Commission. Outlined under each Planning Area are the zoning standards as outlined in Chapter 161 of the Unified Development Code.

The proposed project booklet also outlines the zoning criteria for each Planning Area, though there are discrepancies found between the two. The applicant shall revise the project booklet to reflect those criteria approved by the Planning Commission.

Planning Area 1 (PA-1) – Single Family Residential

AREA: 26.05 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 24	Home occupations

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.*

	Single-family, Two- and Three-family dwellings
Units per acre	4 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft. (per unit)
Three-family	30 ft. (per unit)

(2) *Lot area minimum.*

Townhouse:	
Individual lot	2,500 sq. ft.
Single-family	4,000 sq. ft.
Two-family	2,400 sq. ft. (per unit)
Three-family	2,400 sq. ft. (per unit)

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.

(E) *Setback requirements.*

	Front	Side	Rear
Single-family	14' *	6'	Minimum 10' **
Two- and Three-family	14' *	0'	Minimum 10' **

* A build-to line.

** The rear building setbacks may range from 10' to 20' depending on the location of utilities. All structures shall be setback 20' from the centerline of any alley or easement.

(F) *Height.* No structure shall exceed three stories, exclusive of the basement.

(G) *Building area.*

Detached dwelling Units: On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

Attached dwelling Units: On any lot the area occupied by all buildings shall not exceed 80% of the total area of such lot.

(H) *Maximum Dwelling Units:* 91

(I) *Architectural Design Standards:*
Reference the Project Booklet

**Planning Area 2 (PA-2) – Town
Homes/Single Family Attached**

AREA: 12.15 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 24	Home occupations
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
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(C) *Density.*

	Single-family, Two- and Three-family dwellings
Units per acre	6 or less

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft. (per unit)
Three and more	30 ft. (per unit)

(2) *Lot area minimum.*

Townhouse:	
Individual lot	2,700 sq. ft.
Single-family	2,700 sq. ft.
Two-family	2,700 sq. ft. (per unit)
Three or more	2,700 sq. ft. (per unit)

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

	Front	Side	Rear
Single-family	10' *	0'	Minimum 20'; 30' from centerline of alley or easement
Two- and Three-family	10' *	0'	Minimum 20'; 30' from centerline of alley or easement

* A build-to line, wherever possible.

(F) *Height.* Minimum two (2) stories.
Maximum 45 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 80% of the total area of such lot.

(H) *Maximum Dwelling Units:* 72

(I) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 3 (PA-3) – Plaza Condominium

AREA: 4.01 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 14	Hotel, motel, amusement facilities
Unit 24	Home occupations

(C) *Density.*

Units per acre	40 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.
Non-residential	0 ft

(2) *Lot area minimum.*

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.
Non-Residential	No Minimum

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
20	0'	20'

(F) *Height.* Minimum two (2) stories.
Maximum seven (7) stories.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 160

(I) *Maximum Bedrooms:* 320

(J) *Maximum Intensity:* 26,000 sq. ft. non-residential use

(K) *Architectural Design Standards:*
Reference the Project Booklet

**Planning Area 4 (PA-4) – Courtyard
Multi-Family**

AREA: 7.83 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 24	Home occupations

(C) *Density.*

Units per acre	40 or less
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(E) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.

(2) *Lot area minimum.*

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.
Non-Residential	No Minimum

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
16' from a public street or alley	16'	16'
10' from a private drive or access easement		

(F) *Height.* Minimum two (2) stories.
Maximum four (4) stories.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 313

(I) *Maximum Bedrooms:* 626

(J) *Maximum Intensity:* 25,000 sq. ft. non-residential use

(K) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 5 (PA-5) – Multi-Family Residential

AREA: 4.79 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 24	Home occupations

(C) *Density.*

Units per acre	36 or less
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(F) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.

(2) *Lot area minimum.*

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.

(3) *Land area per dwelling unit.*

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
30' from a public street	10'	20'
10' from a private drive or access easement		

(F) *Height.* Minimum two (2) stories.
Maximum 4 stories otherwise.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 172

(I) *Maximum Bedrooms:* 344

(J) *Maximum Intensity:* 10,000 sq. ft. non-residential use

(K) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 6, 7, 8, 9 (PA-6, PA-7, PA-8, PA-9) – Preserve/Botanical/Detention

AREA:

PA-6: 4.85 acres
PA-7: 1.17 acres
PA-8: 2.31 acres
PA-9: 10.47 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
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(2) *Conditional uses.*

Unit 4	Cultural and recreational facilities
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(C) *Density.* None (not applicable)

(G) *Bulk and area regulations.* None (not applicable)

(E) *Setback requirements.*

Front	Side	Rear
15'	10'	15'

(F) *Height.* No maximum height.

(G) *Building area.* No maximum building area.

(H) *Maximum Dwelling Units:* Not applicable

(I) *Maximum Bedrooms:* Not applicable

(J) *Architectural Design Standards:* Not applicable

Planning Area 10 (PA-10) – Civic Lawn

AREA: 1.29

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
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(2) *Conditional uses.*

Unit 4	Cultural and recreational facilities
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(C) *Density.* None (not applicable)

Bulk and area regulations. None (not applicable)

(E) *Setback requirements.*

Front	Side	Rear
15'	10'	15'

(F) *Height.* No maximum height.

(G) *Building area.* No maximum building area.

(H) *Maximum Dwelling Units:* Not applicable

(I) *Maximum Bedrooms:* Not applicable

(J) *Architectural Design Standards:* Not applicable

**Planning Area 11, 12 (PA-11, PA-12) –
Mixed Use Districts**

AREA:

PA-11: 31.82 acres
PA-12: 5.77 acres

(A) *Purpose.* See project booklet

(B) Uses.

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 34	Liquor store

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 5	Government facilities
Unit 18	Gasoline, service stations, and drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 29	Dance halls
Unit 35	Outdoor music establishments

(C) Density.

Units per acre	24 or less
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(H) Bulk and area regulations.

(1) Lot width minimum.

Single family	30 ft.
Two-family	30 ft.
Three and more	30 ft.
Non-residential	0 ft.

(2) Lot area minimum.

Townhouse:	
Individual lot	3,000 sq. ft.
Single-family	3,000 sq. ft.
Two-family	3,000 sq. ft.
Three or more	3,000 sq. ft.
Non-residential	0 sq. ft.

(3) Land area per dwelling unit.

Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.

(E) Setback requirements.

Front	Side	Rear
8' to 12' *	20' from public or private access 0' from internal side property lines	5'

* A build-to line

(F) *Height.* Structures immediately adjacent to the civic lawn shall have a minimum height of 30'. Structures adjacent to main streets shall be a minimum two-stories in height. Maximum height of four (4) stories otherwise.

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:*

PA-11: 783
PA-12: 138

(I) *Maximum Intensity:*

PA-11: 520,000 sq. ft.
PA-12: 60,000 sq. ft.

(J) *Architectural Design Standards:*
Reference the Project Booklet

**Planning Area 13 (PA-13) –
Neighborhood Commercial**

AREA: 4.21 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 18	Gasoline, service stations, and drive-in restaurants
Unit 25	Professional offices
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Residential Use – None
Non-residential – None

(2) *Lot area minimum.*

Residential Use – None
Non-residential – None

(3) *Land area per dwelling unit.*

Townhomes or Apartments:	
•No bedroom	1,700 sq. ft.
•One bedroom	1,700 sq. ft.
•Two bedroom	2,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
50'	0' 25' when contiguous to residential district	20'

(F) *Height.* Maximum 4 stories

(G) *Building area.* 85% of the site

(H) *Maximum Dwelling Units:* 15

(I) *Maximum Bedrooms:* 30

(J) *Maximum Intensity:* 15,000 sq. ft.

(K) *Architectural Design Standards:*
Reference the Project Booklet

**Planning Area 14 (PA-14) –
Thoroughfare Commercial**

AREA: 15.55 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline, service stations, and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Professional offices
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities

(C) *Density.* None

(I) *Bulk and area regulations.* None.

(E) *Setback requirements.*

Front	Side	Rear
40'	0' 25' when contiguous to residential district	20' 25' when contiguous to residential district

(F) *Height.* Maximum 7 stories.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 70% of the total area of such lot.

(H) *Maximum Dwelling Units:* Not Applicable

(I) *Maximum Bedrooms:* Not Applicable

(J) *Maximum Intensity:* 200,000 sq. ft.

(J) *Architectural Design Standards:*
Reference the Project Booklet

Planning Area 15 (PA-15) – Parks and Trails

AREA: 7.18 acres

(A) *Purpose.* See project booklet

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
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(C) *Density.* None (not applicable)

(D) *Bulk and area regulations.* None (not applicable)

(E) *Setback requirements.*

Front	Side	Rear
15'	10'	15'

(F) *Height.* No maximum height.

(G) *Building area.* No maximum building area.

(H) *Maximum Dwelling Units:* Not applicable

(I) *Maximum Bedrooms:* Not applicable

(J) *Architectural Design Standards:* Not applicable



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 5, 2005 *Updated December 15, 2005*

R-PZD 05-1796: Planned Zoning District (PARK WEST, 208): Submitted by TRACY HOSKINS PARADIGM DEVELOPMENT for property located at HWY 112 E OF DEANE SOLOMON RD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 139.45 acres. The request is to review a Master Development Plan for a proposed Residential Planned Zoning District with a maximum of 856,000 s.f. commercial space and 1,712 dwelling units proposed.

Planner: SUZANNE MORGAN

Findings:

Property Description: The property consists of several parcels totaling approximately 140 acres. With the exception of a few single family rental homes and agricultural accessory structures, the property is vacant. The property fronts Hwy 112 to the north and east and Deane Solomon Road to the west. Though there is existing tree canopy on the property, it is concentrated in several small locations on the property. There are also existing wetlands on the property, as identified by the Army Corps of Engineers. Though the property is currently zoned R-A, the applicant has received approval of the rezoning of a portion of the property (shown on the Master Development Plan as Planning Area 1) from R-A to RSF-4. To the south, the property is being developed as Springwoods C-PZD, a development of residential and commercial properties. Also further to the south is the approved Sam's Club. Property to the north is the home of Bio-Tech. facility, single family residences, and north of Hwy 112 property is being developed as a single family subdivision. Property east of the development is developed for single family use, a drive-in movie theatre and various commercial uses.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family residential, Bio-Tech Facility	RSF-4, R-A, I-1
South	Undeveloped residential and commercial property	C-PZD
East	Lander's Auto Park & Drive-in Theater, Single Family homes	C-2
West	Single family residential and agricultural	RSF-4 & R-A

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The proposal includes a maximum of 1,712 dwelling units and 856,000 square feet of non-residential space. A total of fifteen (15) separate planning areas are proposed, each of which has identified uses: Single family residential, townhome/single family attached, plaza condominium, courtyard multi-family, multi-family residential, four preserve/botanical/detention areas, a civic lawn, two mixed-use districts, neighborhood commercial, thoroughfare commercial and park dedication.

The mixture of uses on the project varies dramatically, from that of solely single family detached to that of solely commercial. However, there are transitions between these that allow for a range of less dense townhomes, more dense condominiums, commercial/office/retail and residential mixed use, etc. Each Planning Area has its own specific density (maximum number of dwellings units allowed) and intensity (maximum square feet of non-residential space), depending upon the desired effect. For reasons of zoning, each Planning Area also has to have established bulk and area criteria, setbacks, height, etc. Otherwise each proposal would have to return to the City Council to address these zoning issues with each and every development. The information is provided both in a booklet form, which describes the intent of each Planning Area along with a conceptual drawing, and by way of the larger plat, which gives much of the same technical information, along with the actual Master Development Plan. The building, street, and parking arrangement indicated on the master plan will likely vary somewhat from that which is presented. However, these issues can be resolved with the development review of the project and additional City Council action, if needed. At this step in the process it is important to make the policy decision of whether the zoning is appropriate and compatible to this area, given the proposed Master Development Plan, statement of commitments, and development standards.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept of varied density, variety of uses and walkability while preserving community area, providing parkland and open space, and other infrastructure improvements to support the community. Approval of the Master Development Plan – Planned Zoning District would effectively rezone the property based on the conceptual plans and information provided. However, it does not give development approval. The applicant is required to return through the preliminary plat/final plat and large scale development process (several times, in this case), in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

Bulk and area criteria: The applicant has proposed zoning criteria for each Planning Area. Staff recommends several modifications and additions to these criteria. Attached to the staff report (Exhibit A), following the conditions of approval, staff has provided the zoning criteria for each Planning Area with proposed modifications.

Water & Sewer: Water lines are currently available in the area and sewer lines are available within the development to the south. Public water and sewer lines will be extended to serve the proposed development and will be designed and constructed in

accordance with city specifications to serve the development. Sewer capacity in this area remains an unresolved issue, though staff has been working on an interim solution until the Wastewater Treatment Plant is on-line, which will be 33-36 months from the initial construction date. Depending upon the City Council's decision, the developer will be required to contribute to the interim solution or wait until the treatment plant is online.

Adjacent Master Street Plan Streets:

Hwy 112 (Principal Arterial), an unimproved State Highway
Deane Solomon Road (Collector), an unimproved street where adjacent to the subject property.
Salem Road (Collector), a planned street bisecting the subject property.

Traffic: Access to the site is provided from Hwy 112 to the north and east and from Deane Solomon Road. A 70-foot wide right-of-way has been dedicated through a majority of the subject property for the east-west extension of Salem Road through the property. Though the applicant proposes an east-west connection from Deane Solomon Road to Hwy 112, it is located south of the existing right-of-way; the existing right-of-way is to be vacated prior to approval of the development of any property affected by the existing right-of-way. This vacation will be processed by way of an ordinance through the required procedures. There are three proposed entrances onto Hwy 112 to the east and two entrances to Hwy 112 to the north.

Ernie Peters and Associates, a traffic engineering firm, has evaluated the proposed development's affect on traffic patterns and prepared recommendations for development. As of November 15, 2005, an update to the recommended traffic improvements is in process. The summary of findings and recommendations from a previous study conducted by this firm are available in the project booklet. These recommended improvements include the signalization of the primary entrance to the east and the addition of signalization at Hwy 112 and Van Asche Drive to the north. The revised traffic study, sight distance, curb cut proximity, stacking distance, and relationship to the pedestrian movement along Hwy 112 and Deane Solomon Road will all be examined in detail at the time of development, utilizing the traffic study and more detailed information at that time.

Interior to the project, public and private streets are proposed. The applicant has proposed several cross sections for the streets within the development. Staff is not, at this time, reviewing or recommending approval of the specific proposed street cross-sections (private or public) for the development, though many seem to be very appropriate, given the character and scale of the development proposed. This will occur at the time of development, and the developer will be allowed to present cross-sections for consideration by the Planning Commission. No public or private streets are allowed to be gated, by city ordinance.

Pedestrian circulation has also been addressed with sidewalks along streets that connect the various planning areas. Any trail corridors identified on the Fayetteville Alternative Trails and Transportation Plan through this property will be accommodated at the time of

development; the applicant should expect a recommendation for a trail corridor to be dedicated or easement provided in which this trail connection can be realized.

Street Improvements: The applicant commissioned a traffic study for this project, the executive summary of which is included in the last few pages of the project booklet. Staff anticipates the submission of a revised traffic study at the time of development. Staff will be making the following recommendations, at minimum, at the time of development:

- ◆ Realigning Deane Solomon Road as proposed and removing those portions of street/intersections no longer necessary, as well as coordinating the necessary improvements to facilitate this realignment.
- ◆ The widening of those unimproved portions of Deane Solomon Road and Hwy 112 including standard improvements (six foot sidewalks, curb and gutter, storm drains, street lights and turn lanes at Hwy 112)
- ◆ Construction of an east-west Collector Street to connect Deane Solomon Road and Hwy 112.
- ◆ Signalization to include installation of a traffic signal in accordance with AHTD and City of Fayetteville standards at the East-West Collector Street and Hwy 112, to be phased coincident with development.
- ◆ Contributions to the signalization of the intersection of Van Asche Dr. and Hwy 112, as deemed necessary by the Planning Commission at the time of development of the various phases.
- ◆ Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteria, to be determined by the Planning Commission, as outlined in the Unified Development Code.

Tree Preservation: A majority of the site contains open pasture land, though there are several groupings of trees. Many of these groupings are located within the proposed parkland and community greenspace areas, those areas that are currently designated wetlands. The applicant proposes to meet the expected minimum percent canopy requirements, which is 25% in property zoned PZD, as well as preserve canopy within the parkland and community greenspace areas. The intent is to allow flexibility in order to adjust the layout of individual buildings within the unique Planning Areas in an attempt to meet the minimum percent canopy requirements. More detailed comments from the Urban Forester are included in the attached staff report.

Parks: The Parks and Recreation Board has not evaluated the proposed dedication of park land. A 7.18-acre parkland dedication has been indicated in the submittal. The applicant shall meet the parkland dedication ordinance, based on the number of units proposed, at the time of development, or as coordinated with the Parks Department. More detailed comments from the Parks Planner are included in the attached staff report.

Public Comment: The applicant has held several public meetings regarding the proposed project, including three Ward 4 meetings. Staff has received concerns from the property owner to the north regarding the preservation on wetlands along the north property line of the subject property, and questions from other surrounding property owners about the project proposal.

Additional Information: In the latest submittal to Planning Staff (12/03/05), the applicant indicated a desire to add several use units, both permitted and conditional, to Planning Areas 3 (Plaza Condominium), 4 (Courtyard Multi-family), and 5 (Multi-family Residential). These uses were not included in the project booklet or the plats. Neither was any information included regarding their specific criteria (intensity), therefore it is assumed that no square footage is allowed. Staff recommends that in each area where non-residential uses are proposed, a maximum intensity be established. The recommended Zoning Criteria Charts following the conditions of approval address this issue, along with others.

Additionally, there are several oversights, typos, mistakes and items staff simply cannot support in the proposal, through repeated submittals by the applicant. As of Monday, December 05, 2005, use units were being added to the project. To address this issue, staff has proposed recommended zoning criteria for each Planning Area within the staff report, following for the most part the applicant's submittal, but varying where staff cannot support the request or finds insufficient information presented (see staff report). Staff is in favor of the proposal's general concept. With the current submittal, however, staff cannot recommend this proposal for approval, given the amount of information that is yet to be clearly defined and found necessary in order to proceed.

Recommendation: Staff recommends tabling the Master Development Plan – Residential Planned Zoning District for Park West (R-PZD 05-1796) as submitted. Staff has prepared "Exhibit A," which consists of a Zoning Criteria Chart for each Planning Area. If the Master Development Plan is amended to adopt Exhibit A with all conditions of approval, staff would recommend forwarding this item to the City Council with a recommendation of approval.

The Planning Commission voted 8-0-0 for approval of the rezoning with the following conditions:

Conditions of Approval:

1. There are several criteria listed in the zoning standards of each Planning Area with which staff finds inappropriate and impossible to enforce, such as setback regulations, land area per dwelling unit criteria, etc. Therefore, staff has recommended zoning criteria for each Planning Area recommend these for consideration of approval in lieu of the criteria listed in the project booklet. (See attached list of zoning criteria.)

The Planning Commission amended the Planned Zoning District submitted to accept staff's zoning criteria recommendations, herein titled "Exhibit B." Although the applicant has revised the zoning criteria within the project booklet, there remain a few minor discrepancies between this and the approved Exhibit. The applicant shall revise the project booklet to reflect the exact criteria and language approved by the Planning Commission, unless modified by the City Council.

2. The Planning Commission shall determine that the provided number of parking spaces is appropriate for the proposed use of the property. The applicant currently proposes the following modifications to the current ordinance:
 - a. Mixed Use Planning Areas 11, 12, 13, 14: Parking shall be based on a ratio of one parking space per 300 square feet of gross floor area, regardless of use.
 - b. All parking within Planning Areas 11, 12, 13, and 14 shall be shared. No conditional use permit is required to permit shared parking, with this proposal. Parking shall be provided with each development as determined necessary by the Planning Commission.
 - c. The number of parking spaces required by ordinance for development within Planning Areas 3, 4, and 5 may be reduced by 25% without additional City approval (the current ordinance allows for a 30% reduction).

The Planning Commission voted in favor of the proposed parking regulations, which vary from the requirements set forth in the Unified Development Code.

3. Zoning and development criteria shall be enforced as approved by the City Council, and currently referenced in the attached zoning criteria with modifications proposed by staff. Flexibility will be allowed to this development criteria (street cross-sections, etc.) listed in the booklet, but Planning Commission approval of development is required. As the character of the properties surrounding the subject property change, ordinances are modified, and the General Plan 2020 is updated, staff anticipates deviations from the requirements set forth in the project booklet, especially in reference to the Statement of Commitments. However, the approved plans, commitments and standards will be kept on file in the Planning Division, and referenced for subsequent development proposed on the property.
4. Future development shall comply with at least the minimum design standards for development in the Unified Development Code, including but not limited to landscaping, parking, access, street design, stormwater detention, etc. Buildings proposed shall be reviewed to ensure appropriate architectural compatibility, compliance with commercial design standards, and/or conformance with the architectural standards and concepts provided with the subject submittal.
5. Planning Commission determination of Master Street Plan amendments for Deane Solomon Road to realign the street to the east and Salem Road across the property to realign further to the south. *Staff recommends additional information be provided for further future evaluation by the Planning Commission, Street Committee and City Council at the time of development in order to determine a more precise location for the street realignments. The conceptual street layout is still too vague at this time for staff to support a policy amendment.*
6. Vacation of existing easements and/or rights-of-way necessary for the development of the proposed streets and structures shall occur prior to approval of the affected phases of development, as required by city ordinance.

7. Overhead awnings, balconies, etc. may be extended within the required front building setback for this development, with Planning Commission approval of the associated development.
8. The Parks and Recreation Advisory Board has not formerly reviewed the development proposal. In reference to the Statement of Commitments, which expound on parkland dedication, staff finds that prior to the submission of an application for development review the proposal shall be submitted to the Parks Division. The Parks and Recreation Advisory Board shall review the proposal and make a recommendation for either dedication of land or money in lieu of land as well as the best location of parkland dedication, which may differ from the location identified on the Master Development Plan. Coordination between the developer and the PRAB may result in a one-time larger dedication or multiple dedications, as properties develop. This is to be determined.
9. The applicant defines landscape requirements for parking lots within the Development Standards, Conditions and Review Guidelines section of the project booklet. Many of these requirements are above and beyond ordinance requirements, though some specifications are less than the ordinance requires. For example, the project booklet identifies that landscape strips (lawns) shall be a minimum width of 6 feet; the ordinance requires a minimum 8 feet. The PZD ordinance states that all development regulations proposed within a PZD shall meet the minimum requirements, but may be more stringent. Should any regulations specified in the project booklet be found substandard to those required by the current ordinance at the time of development, the current ordinance requirements shall supercede those proposed by the applicant.
10. Many street cross-sections have been proposed by the applicant in the project booklet. These cross-sections have not been reviewed by staff and should not be construed as having been approved. Some of these cross-sections, for example Streets G and H, represent cars parked perpendicular to the street, which would require the vehicle to back out onto the street; the current ordinance does not permit a vehicle to enter a street in a backing motion. Should the applicant request a modification to the standard street sections adopted by the City of Fayetteville at the time of development of each Phase, the applicant shall propose a waiver request. The requested street cross-sections shall be reviewed by staff and Planning Commission at that time for approval. The flexibility to propose varies street sections is allowed by the PZD process.
11. All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. Staff finds several of the allowances for signs listed in the Development Standards, Conditions and Review Guidelines (for example, the allowance of video screens and banners on street lights) objectionable and not compliant with the current ordinance requirements. Additionally, there are many statements in the project booklet that the PWAC shall have authority to approve signs; no sign may be erected without issuance of a sign permit from the City of Fayetteville. More stringent regulations may be placed on developments within Park West to ensure

a cohesive sign program; however, the sign ordinance may not be violated in doing so.

12. Monument markers shall be considered a free-standing structure and permitted accordingly.
13. The applicant commissioned a traffic study for this project, the executive summary of which is included in the last few pages of the project booklet. Staff anticipates the submission of a revised traffic study at the time of development. Staff anticipates making the following recommendations, at minimum, at the time of development:
 - a. Realigning Deane Solomon Road as proposed and removing those portions of street/intersection no longer necessary.
 - b. The widening of Deane Solomon Road and Hwy 112 including standard improvements (six foot sidewalks, curb and gutter, storm drains, street lights and turn lanes at Hwy 112)
 - c. Construction of an east-west Collector Street to connect Deane Solomon Road and Hwy 112.
 - d. Signalization to include installation of a traffic signal in accordance with AHTD and City of Fayetteville standards at the East-West Collector and Hwy 112, to be phased with development.
 - e. Contributions to the signalization of the intersection of Van Asche Dr. and Hwy 112, as deemed necessary by the Planning Commission.
 - f. Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteriaAll street improvements are subject to Planning Commission approval and will likely be phased with proposed development.
14. Compliance with federal, state and local regulations regarding the development of wetlands is required.
15. Each Phase submitted for preliminary plat or large scale development review shall meet current development criteria at the time of submittal. The applicant shall be granted two (2) years from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
16. At the Planning Commission's discretion, if after five (5) years of the City Council adoption of the Master Development Plan, the approved zoning criteria are not in accordance with the goals, policies and guidelines of the City of Fayetteville, the Planning Commission shall determine if the Master Development Plan shall be submitted to the City Council for reconsideration.
17. Public water and sewer lines shall be extended as required by city ordinance at the time of development. Detailed analysis of the existing water and sewer systems will be required to be submitted with the development submittal. As mentioned in the staff report, the developer shall contribute to the interim wastewater capacity

solution in this basin as determined by the City Council in order to develop prior to the Wastewater Treatment Plant completion.

18. Approval of this Master Development Plan – Planned Zoning District shall not be construed as development approval. Pursuant to city ordinance, all development of the property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. Each Planning Area shall be evaluated based on the zoning and development criteria established with the Master Development Plan. Circulation, landscaping, tree preservation, design standards, connectivity, infrastructure improvements and other city policies and ordinances remain applicable with the development review process. The conceptual designs proposed are to be used as a template from which detailed plans are produced; however, it is expected that certain items will change, in accordance with the Planned Zoning District ordinance.
19. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
20. Prior to City Council consideration, the applicant shall modify the project booklet and Master Development Plan to reflect the Planning Commission recommended zoning criteria. A meeting with staff is recommended to finalize these documents and address any potential issues. Specifically, Sheet 3 of the Master Development Plan shall be revised to address the following issues:
 - i. Modify the legal descriptions to comply with the requirements of the ordinance and listed in the application. Provide a separate disk with the legal descriptions (in AutoCad).
 - ii. Modify the Statement of Commitments on the plat so that they are legible. Replacing the proposed phasing of the development with a reference to the project booklet is recommended.
 - iii. Show all existing right-of-way and easements. There is an existing 70' ROW through a portion of the property for the extension of Salem Road located north of the proposed Park West Blvd.

Planning Commission Action:	Required <u>YES</u>
	✓ Forwarded w/ Approval ☐ Denied ☐ Tabled
	<i>Motion:</i> Clark
Meeting Date: <u>December 12, 2005</u>	<i>Second:</i> Myres
	<i>Vote:</i> 8-0-0
Comments: _____	

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

CITY COUNCIL ACTION:

yes Required

Date: January 03, 2006

 Approved

 Denied

Comments:

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By

Date

Findings associated with R-PZD 05-1796

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the General Plan 2020, the application provides for a mixture of residential, office, commercial and mixed uses while providing a portion of both undisturbed area and usable open space. The proposal utilizes principles of traditional urban design to create compatible, livable and accessible neighborhoods; transitions and manages non-residential development within and adjoining residential neighborhoods to minimize nuisances; utilizes the policies of connectivity, both for vehicles and pedestrians; provides designated areas of civic gathering, and sites new development in close proximity to public services and infrastructure.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be considerable compliance with applicable statutory provisions; however, there are revisions requested to the plat and project booklet submitted for review. These modifications are enumerated in the conditions of approval.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken in a timely manner to for adequate infrastructure improvements by the developer to ensure the level of service does not decline due to the proposed development. Examples of this include requirements to contribute to the interim wastewater capacity solution in this basin as determined by the City Council, realign Deane Solomon Road, traffic signalization, expanding park property, etc. Fire and police have responded accordingly.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, creates a mixture of commercial, office, retail/restaurant and residential uses. The property to the south is zoned for these types of uses, though development of these properties is at this time limited to residential use. A majority of the property to the west and north are developed for residential uses, though the properties to the north and east are designated for Mixed Use and Community Commercial Use on the General Plan 2020. Staff finds the range of uses to be appropriate in this rapidly growing area in northwest Fayetteville by Hwy 112.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is remnant farm land that has been mostly cleared. There are areas, especially along the north and south property lines, where wetlands are prevalent, that contain considerably-sized trees. The proposal intends to maintain the required 25% tree canopy where required; all City ordinances and the requirements of the Army Corps of Engineers shall be abided when development of existing wetlands occurs.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Based on the traffic study completed for this project, there would be considerable traffic increase generated by this development and therefore considerable improvements mandated. As noted by the Police Department, an increase of traffic on Hwy 112 and Deane Solomon Road, both on hilly terrain; therefore, the placement of new streets and signalization must be carefully considered. The developer will be expected to make significant improvements to Hwy 112 and Deane Solomon Road in addition to the improvements being made by the developer of Springwoods to the south and Sam's Club to the southeast. These improvements include new traffic signals, street improvements to Hwy 112 and Deane Solomon Road, the installation of an east-west collector street, as well as other improvement to ensure safe and adequate vehicular and pedestrian movement. The applicant has indicated that these improvements are anticipated, and agrees to meet the requirements placed upon the project by the City of Fayetteville in order to develop this project.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the community once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed proposes development standards and zoning criteria such as sign regulations, that would violate ordinances which cannot be modified with a Planned Zoning District proposal. These items have been addressed in staff's comments, and will be permitted strictly in accordance with adopted city ordinances.

(J) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein does incorporate an acceptable level of compatibility with some slight modifications and clarifications to the proposed zoning districts as listed in the conditions of approval. Staff finds that the proposed development features further the health, safety, amenity and welfare of the community. Density, maximum dwelling units and maximum intensity (non-residential square feet) have been addressed for each planning area; open space is to be provided, both concentrated and within the development as a whole; circulation is achieved via public and private streets, with an emphasis on a traditional urban design, allowing pedestrians freedom of movement; screening, landscaping and tree preservation are all proposed to meet City of Fayetteville standards, allowing for a project that enhances the neighborhood. Street lights, signage and parking are not proposed to meet City of Fayetteville standards; however, those criteria (i.e., signage) that are not modified with a PZD ordinance are not modified by this proposal. Flexibility in design of the development is possible with Planning Commission approval.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning

Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required at this time; with development of the site, all applicable development criteria will be applied for appropriate landscaping, screening and buffering of parking areas and objectionable uses, as outlined by the Unified Development codes.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
 - (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Traffic circulation has been evaluated with a traffic study, a summary of which is included at the end of the project booklet. Ingress and egress interior to the project shall be evaluated and required to be constructed with the development of the property. A hierarchical system of boulevards, public streets, rear parking, and private drives are proposed. Issues of connectivity will be evaluated and addressed with more refined development of the Planning Areas. Though block length, alley width for services, curb cuts and other design criteria will be addressed at the time of development, staff finds that several of the proposed street cross sections as described in the project booklet do not meet minimum requirements of the Master Development Plan and will need to be reevaluated at the time of development. These issues are more appropriately discussed at that time.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: The applicant proposes the use of standard parking ratios for the proposed uses with the following exceptions: The required parking spaces in Planning Areas 11 – 14 may be shared parking without a conditional use permit and the parking shall be based on a ratio of one parking space per 300 square feet gross floor area, regardless of use. The number of parking spaces required by ordinance for development within Planning Areas 3 – 5 may be reduced up to 25% without addition City approval. On-street parking may be counted towards the number of required parking spaces for proposed developments. All parking dimensions shall comply with City of Fayetteville standard specifications.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development provides pockets of open space that will be utilized as detention areas and botanical areas for public use. The requirements of open space within a commercial development are 15% of the total property. These requirements shall be met with the development of the proposed property. Open spaces are indicated to be met with development of each Planning Area, and all buffering, screening and landscaping required by city code will be applicable. In many instances, buildings front directly onto streets with reduced setbacks, therefore, the typical 15' greenspace requirement is waived. However, a street planting will be required with all developments. All non-residential uses shall be screened in accordance with the Unified Development Code.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development to ensure compliance. The applicant proposes sidewalks outside of the right-of-way where adjacent to mixed-use/commercial areas and encourages wider sidewalks under canopies and structures to provide a sheltered path for pedestrians. More specific proposals will be evaluated at the time of development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be required at the time of development. The applicant proposes to comply with the requirements of the Outdoor Lighting Ordinance and proposes requirements for placement and height of street lights which are more restrictive than the current ordinance requirements (see Development Standards, Conditions and Review Guidelines within the project booklet).

(8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be

required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant proposes a variety of cross sections for the streets within the proposed development. Many of these proposed cross sections and rights-of-way do not conform to city standards and further evaluation of both private and public streets shall occur at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: Only a portion of parkland and open space is proposed to be dedicated with the each phase of the development. The first phase of development is The Heights at Park West, which will be a single family development. The second phase of development is proposed to be Thoroughfare Commercial. Per ordinance requirements, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities in the amount of 150% that will be deposited with the city. The applicant is in agreement with this ordinance requirement.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development. It is anticipated that a large tree preservation/undisturbed area will be protected; however, it is important to note that each Planning Area will also be responsible for its own tree preservation and mitigation, and evaluated accordingly. All development shall meet the Tree Preservation ordinance.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: All commercial structures shall be evaluated as set forth in the code, at the time of development. The applicant has set forth extensive requirements for the architectural standards of the structures in each Planning Area, far beyond the requirements of the Unified Development Code. These criteria are to be above and beyond the Commercial Design Standard requirements for commercial uses. Planning staff and the Planning Commission shall determine compliance of each structure proposed in light of the architectural requirements set forth by the applicant.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

- (E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or

occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of

permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is decided to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance. Covenants for Phase I of the development have been proposed and are included in the project booklet; they shall be filed with the final plat of The Heights at Park West.

Sec. 161.25 Planned Zoning District

(A) **Purpose.** The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) **Flexibility.** Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) **Compatibility.** Providing for compatibility with the surrounding land uses.

- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed Master Development Plan incorporates the majority of the above criteria, as evidenced in the variety of uses in the Planning Areas; the transitioning from commercial to mixed use to condominium to townhouse to single family detached; preservation and enhancement of wetlands to provide public and private open space; creating a community atmosphere with a civic lawn and build-to lines adjacent to sidewalks to provide pedestrian space; providing necessary infrastructure improvements to alleviate any potential impact; and providing a variety of housing types within the same area, allowing for a socio-economic diversity while promoting a community atmosphere in which one can work, live and play.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1796, with fifteen (15) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposed use is a mixture of uses containing single family detached and attached residential, multifamily residential, commercial, office, retail and restaurant uses. It provides a variety and flexibility of land use, while retaining a primary emphasis on the residential component. Improvements to infrastructure will be required in order to not create heavy traffic congestion, as the primary points of entry (Deane Solomon Road and Hwy 112) are substandard for future high levels of traffic.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Staff has created a Zoning Criteria Chart for each Planning Area, found as "Exhibit A" following the conditions of approval. This Zoning Criteria Chart varies from that submitted by the applicant. See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in each Planning Area as proposed by the applicant. Various items have been omitted, uses are proposed that staff does not support, etc. This project booklet or "Exhibit A" approved by the City Council, if approved, will remain on file in the Planning Division for comparison to future development on the property.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The majority of development within the proposed Master Development Plan is slated for residential use.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff ultimately recommends approval of the rezoning request from R-A, Residential Agricultural, to R-PZD 05-1796, with the adoption of the associated Master Development Plan. However, at this time there are several items that shall need to be addressed. Staff recommends this item be tabled to return to the Planning Commission with revised materials that address the concerns presented.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Residential Area. Rezoning this property to R-PZD 05-1796, with the associated Master Development Plan, varies this future land use to a mixed use, though the principal use on the property will remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the General Plan 2020 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning will allow the creation of a development that has a variety of uses, from residential single family to commercial, in an area designated by the General Plan 2020 to be developed for residential use. The proposed development is, however, consistent with many of the principles and policies in place. The policies encouraged by the General Plan 2020 call for mixtures of uses, housing sizes and types, pedestrian-friendly neighborhoods, close proximity from new development to arterials, and near schools and other public services. This project meets all of these goals, and

creates an internal transition of land uses that attempt to address adjacent land uses.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is needed in order to develop anything other than agricultural or low density single family uses on the property.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will undoubtedly result in an increase in vehicle trips, due to the change in use from an existing pasture to 1,712 dwelling units and 795,000 SF of nonresidential space. It is essential that street improvements occur as a result, to be installed with development of the project. With the improvements caused by the magnitude of development proposed, other users of Hwy 112 and Deane Solomon Road will likely benefit as well. An estimated 1.6% increase to the 46,140 calls received for service in 2004 plus the additional calls resulting from the addition of a maximum 903 additional dwellings in Planning Areas 11 and 12 is anticipated by the Police Department. The Fire Department anticipates 388 calls for service at full build-out of the project. The response time is 7.5 minutes (approximately 8 minutes at full build-out), which meets the Fire Department's goal to have all response teams on site within 10 minutes, 90% of the time, though it does not meet the Department's goal to have the first unit on the scene within 6 minutes, 90% of the time. The applicant has spoken with the Fire Department about a possible dedication of property for a fire station within the project; however, no formal proposal has been proposed by the applicant.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Population density will be increasing in this area. Water and sewer services will be required to be evaluated and submitted at the time of development; those improvements necessary to retain an acceptable level of service for all infrastructure as dictated by the City of Fayetteville will be required of the developer, including the extension of water service and sewer lines, and other infrastructure needs deemed appropriate and meeting the rough proportionality of the impact of this development on the existing infrastructure.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3471

To: Fayetteville Planning Commission
From: Sarah K. Patterson, Urban Forester
Date: December 5, 2005

ITEM #: R-PZD 05-1796: Planned Zoning District (Park West)

TREE PRESERVATION PLAN

1. As a Planned Zoning District, by Chapter 167 of the Unified Development Code, the developer is required the most restrictive preservation percent; 25%.
2. As each phase comes through the development process a complete Tree Preservation plan will be required in accordance with Chapter 167. It will be important at that time to show all natural features such as but not restricted to the topography, significant trees, and waterways.
3. If preservation can not be met, on-site mitigation, money in lieu of, or a combination of both will be available upon approval from the Urban Forester.
4. Canopy found within right of way, utility easement, and/or dedicated park land can not be counted toward preserved canopy.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

November 7, 2005

Suzanne Morgan
Associate Planner
City of Fayetteville
125 W. Mountain St.
Fayetteville, AR 72701

Dear Ms Morgan:

This document is in response to the request for a determination of whether the proposed **R-PZD 05-1796: Planned Zoning District (PARK WEST, 208)**: Submitted by TRACY HOSKINS PARADIGM DEVELOPMENT for property located at HWY 112 E OF DEANE SOLOMON RD. would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

Based on historical data of similar developments, we can estimate the calls for service this area would generate. After comparative analysis of similar developments for planning areas 1-5 in the proposed PZD, we estimate an increase in 741 calls for service. This would be a 1.6% increase to our 46,140 calls received in 2004. This number does not include estimates for PA's 11-12, which would add a maximum of 903 additional dwelling units. There are no similar developments for comparison to this use.

Development of this size will definitely increase traffic congestion. The included traffic study recommendations should be required.

Sincerely,


Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: November 2, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: November 7th Re-zoning review from the Fayetteville Fire Department.

R-PZD05-1796 (PARK WEST, 208)

These 139.45 acres are covered by Engine 2 on North Garland.

The property is 3.4 miles from the station with a projected response time of 7.5 minutes to this development and 8 minutes when the maximum build-out is completed.

The Fire Department anticipates 388 calls for service (236 EMS & 152 Fire/Other) once the development is completed and maximum build-out has occurred.

The 7.5 minute response time is above our response time goal of having the first unit on the scene within 6 minutes, 90% of the time.

The service impact of this development will typically take eighteen months, after the development is started, to occur.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3472

TO: Suzanne Morgan, Planner
FROM: Matt Mihalevich, Park Planner
DATE: October 31, 2005
SUBJECT: Parks & Recreation Tech. Plat Review Comments

Meeting Date: November 2, 2005
Item: PZD 05-1796 (Park West, 208)
Park District: NW
Zoned: R-A
Billing Name & Address: Paradigm Development Enterprises, Inc.
1895 West 6th Street
Fayetteville, AR 72701

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- On May 31st, 2005 The Parks and Recreation Advisory Board recommended transferring 5.064 acres of park land from Laureate Fields Subdivision to the future Park West at the Audubon property, the exact location of the park to be determined. Since that time, Laureate Fields has been offered for sale. If the sale goes through the 5.064 acres will not be included as part of Park West.
- Paradigm is proposing approximately 7 acres of park land to be dedicated with Park West with the remaining dedication in the form of money in lieu. This proposal will be reviewed by Parks staff and submitted to the Parks and Recreation Advisory Board for a recommendation.
- Please contact the Fayetteville Parks and Recreation office with any questions.

*Comment
upls*

EXHIBIT "A"

Formerly the "Mike and Brenda Price Property"

A part of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty-eight (28), Township Seventeen (17) North, Range Thirty (30) West, being more particularly described as follows: Commencing at the Northwest corner of said 40 acre tract, said point being in Arkansas Highway #112; thence South 01° 21' 02" West along the West line of said 40 acre tract 60.40 feet to an existing iron on the south right-of-way line of said Highway for the true point of beginning; thence South 88° 44' 20" East along said right of way 636.06 feet to an existing iron; thence leaving said right of way South 00° 40' 42" East 565.86 feet to an existing iron; thence South 01° 01' 05" West 179.25 feet to an existing iron at a fence corner; thence South 01° 01' 05" West 161.92 feet to a set 1/2" iron rebar on the proposed north right of way line of an undeveloped street as shown on the master street plan for Fayetteville, Arkansas; thence North 88° 33' 19" West along said proposed right of way line 658.07 feet to a set 1/2" iron rebar on the West line of said 40 acre tract; thence North 01° 21' 02" East 904.60 feet to the point of beginning, containing 13.52 acres, more or less.

Formerly the "Graves Property"

A PART OF THE E1/2 OF THE SW1/4 AND A PART OF THE W1/2 OF THE SE1/4, ALL IN SECTION 28, T-17-N, R-30-W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF THE NE1/4 OF THE SW1/4 OF SAID SECTION 28, AND CONTINUING S 87°14'29" E ALONG THE NORTH BOUNDARY OF SAID 40 ACRE TRACT 634.01 FEET, AND THENCE S 00°11'32" W, 628.47 FEET TO AN EXISTING STEEL FENCE POST, AND THENCE S 03°03'56" W, 178.40 FEET TO AN EXISTING IRON PIN, AT A FENCE CORNER, SAID POINT BEING THE POINT OF BEGINNING; THENCE S 87°12'12" E, 1927.53 FEET TO AN EXISTING IRON PIN ON THE WESTERLY RIGHT-OF-WAY OF ARKANSAS HIGHWAY 112, SAID RIGHT-OF-WAY BEING 55 FEET WEST OF SAID HIGHWAY CENTERLINE; THENCE ALONG SAID RIGHT-OF-WAY, S 02°43'05" W, 1453.41 FEET, S 02°02'13" W, 63.14 FEET, S 00°11'37" W, 51.97 FEET, S 03°04'20" E, 40.08 FEET, S 07°04'17" E, 55.68 FEET, S 11°50'57" E, 58.74 FEET, S 15°35'06" E, 71.32 FEET, AND S 18°14'06" E, 15.95 FEET TO A POINT ON THE EASTERLY BOUNDARY OF SAID 80 ACRE TRACT; THENCE LEAVING SAID RIGHT-OF-WAY S 02°32'41" W, 26.08 FEET TO A FOUND ALUMINUM CAPPED IRON PIN AT THE SE CORNER OF THE SW1/4 OF THE SE1/4 OF SAID SECTION 28; THENCE N 87°09'05" W, 1322.12 FEET TO AN EXISTING FENCE CORNER AT THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE N 87°21'56" W, 1316.30 FEET TO AN EXISTING IRON PIN AT THE SW CORNER OF THE SE 1/4 OF THE SW1/4 OF SAID SECTION 28; THENCE N 02°31'02" E ALONG THE WEST BOUNDARY OF THE E1/2 OF THE SW1/4, 1672.02 FEET TO A SET IRON PIN, LOCATED 965.00 FEET SOUTH OF THE NW CORNER OF THE NE1/4 OF THE NW1/4; THENCE LEAVING SAID WEST BOUNDARY S 86°57'53" E, 656.27 FEET TO A SET IRON PIN; AND THENCE N 03°03'56" E, 161.92 FEET TO THE POINT OF BEGINNING, CONTAINING 106.15 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY ARKANSAS. SUBJECT TO: EASEMENTS OF RECORD DESCRIBED AS INSTRUMENT # 9344456 & 2002 084864, AND OTHER DOCUMENTS OF RECORD NOT SHOWN HEREON.

Formerly the "Vawter Property"

A PART OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4 OF SAID SECTION 28-17-30, THENCE S87°14'29"E 1320.14 FEET TO A POINT ON

Oct 24 2005 2:26PM

(4) 443-3383 R-PZD 05-1798 Park West
C.2
Page 49 of 52

*Comet
light*

THE EAST LINE OF THE WEST HALF (W1/2), SOUTHWEST QUARTER (SW1/4) SAID SECTION, . THENCE S02°31'02"W, 34.99 FEET ALONG SAID EAST LINE TO THE SOUTHERN RIGHT-OF-WAY ARKANSAS HIGHWAY No. 112 AND THE POINT OF BEGINNING. THENCE CONTINUING ALONG SAID EAST LINE S 02°31'02" W, 1298.63 FEET; THENCE N87°16'08"W 600.60 FEET TO THE EAST RIGHT-OF-WAY OF WASHINGTON COUNTY ROAD No. 890, THENCE ALONG SAID RIGHT-OF-WAY N10°49'52"E 321.00 FEET, THENCE WITH SAID RIGHT-OF-WAY N07°55'08"W, 284.30 FEET, THENCE WITH SAID RIGHT-OF-WAY N25°41'08" W, 166.10 FEET, THENCE WITH SAID RIGHT-OF-WAY N14°35'08"W 576.59 FEET TO THE SOUTHERN RIGHT-OF-WAY OF ARKANSAS HIGHWAY No. 112, THENCE ALONG SAID RIGHT-OF-WAY S87°35'48E 853.75 FEET TO THE POINT OF BEGINNING, ALL LOCATED IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND CONTAINING 19.860 ACRES, MORE OR LESS.



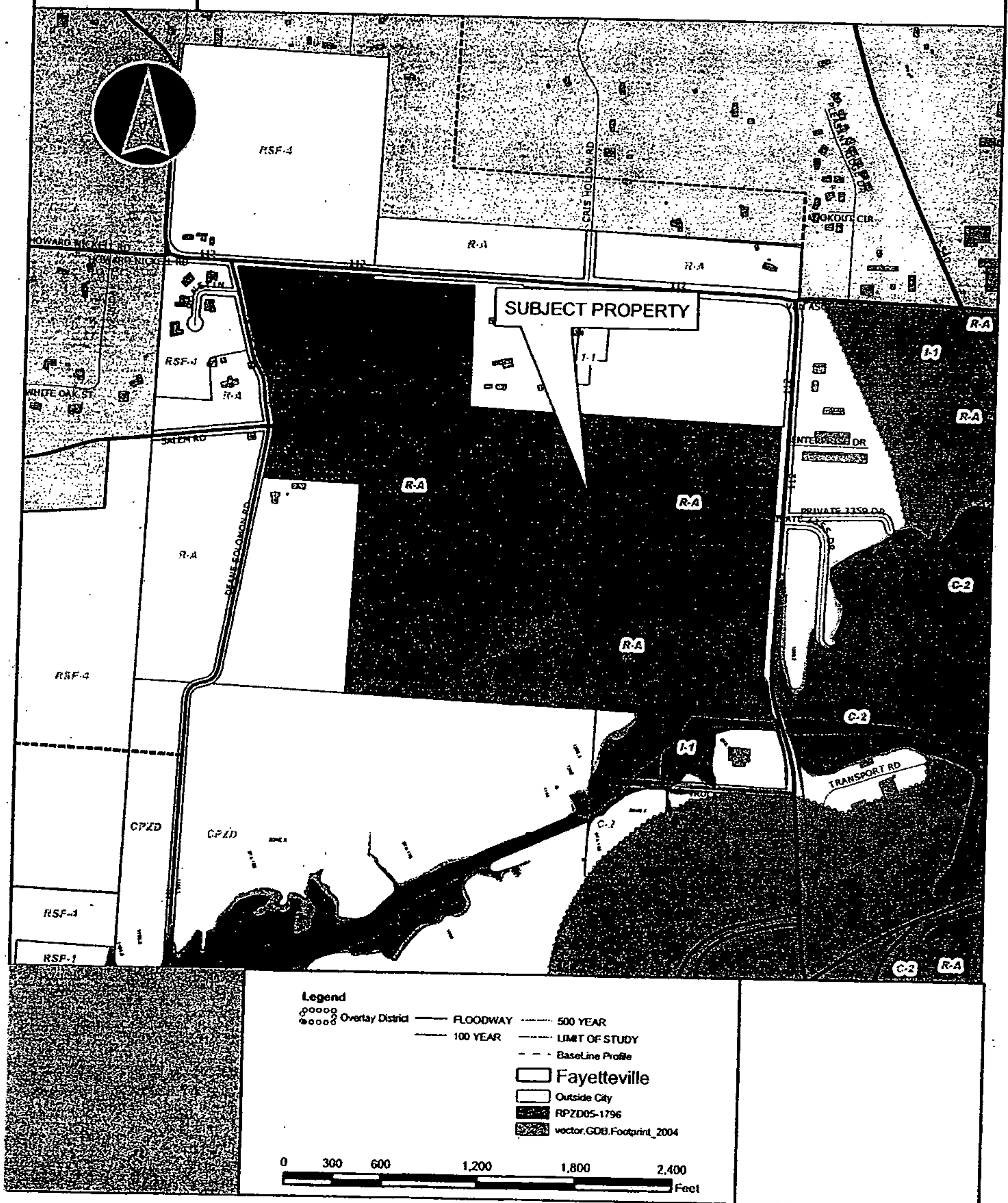
Tracy K. Haskins

FAX - 575-8202

RPZD05-1796

Close Up View

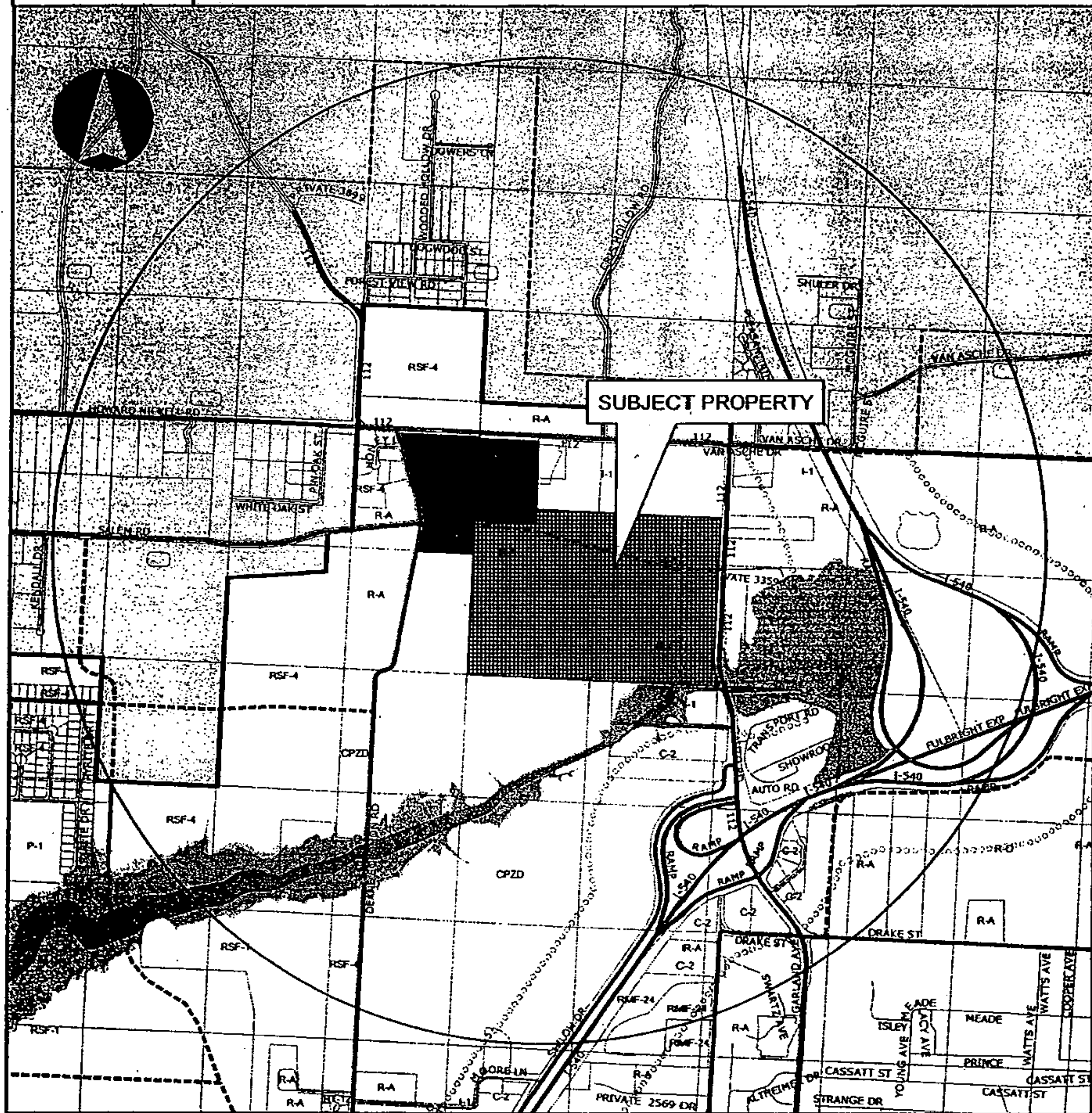
PARK WEST



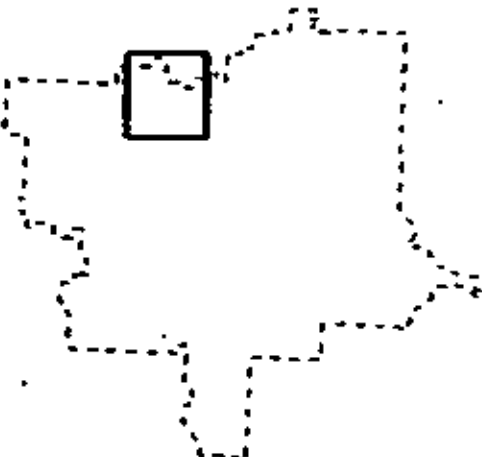
RPZD05-1796

One Mile View

PARK WEST



Overview



Legend

Subject Property

RPZD05-1796

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

1

Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-Jan-06
City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 05-1816: (Skate Place Condominiums, 366/367): Submitted by Project Design Consultants for property located south of Ash Street on both sides of Chestnut Street. The property is zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 3.38 acres. The request is to approve a Residential Planned Zoning District with 34 dwelling units and an existing industrial structure.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12.15.05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 12-16-05
City Attorney Date

Received in City Clerk's Office
ENTERED 12/15/05

[Signature] 12-16-05
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED 12/16/05

[Signature] 12/16/05
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: December 13, 2005

Subject: Rezoning for the Skate Place Condominiums (R-PZD 05-1816)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for the Skate Place Condominiums, submitted by Project Design Consultants, Inc. This action will establish a unique zoning district for a residential subdivision on a 3.38-acre tract south of Ash Street on both sides of Chestnut Street.

BACKGROUND

The subject property contains approximately 3.38 acres containing the abandoned Skate Place skating rink building and parking lot in the eastern portion of the site, with Scull Creek and its associated riparian and wooded habitat over the western portion of the site. It is currently zoned I-1, Heavy Commercial/Light Industrial. The applicant requests rezoning approval for a unique R-PZD zoning district. The proposed use of the site is for preservation/trail uses, 34 condominium units, and industrial uses at the abandoned building.

DISCUSSION

The Planning Commission voted 5-3-0 in favor of this request on December 12, 2005, with commissioners Graves, Clark, and Trumbo voting no, finding that the proposed residential development is not compatible with surrounding, established industrial uses. A PZD requires City Council approval as it includes zoning approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The proposed use of the site is for a mixed use development intended to attached residential housing and revitalize an abandoned site in this industrial neighborhood. Residential uses would be screened from surrounding industrial uses by a landscape buffer and privacy fence on the east and south, with the Scull Creek riparian area tree canopy, and future trail corridor providing a buffer along the west. The proposed development would be accessed off of Ash Street to the north, with Chestnut Street being extended south through the site connecting with Sycamore Street. Finding the proposal compliant with the intent and spirit of the ordinance and compatible with developing land in the vicinity, staff and the Planning Commission recommend approval of this R-PZD.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1816, SKATE PLACE CONDOMINIUMS, LOCATED SOUTH OF ASH STREET ON BOTH SIDES OF CHESTNUT STREET, CONTAINING APPROXIMATELY 3.38 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From I-1, Heavy Commercial/Light Industrial, to R-PZD 05-1816 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

**By: _____
DAN COODY, Mayor**

**By: _____
SONDRA SMITH, City Clerk**

EXHIBIT "A"
R-PZD 05-1816

PARCEL 765-09580-000

PART OF LOTS 5 AND 6 IN BLOCK 11 IN VALLEY VIEW SUBDIVISION, BEING PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND IRON PIN 5 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE EAST RIGHT OF WAY LINE OF CHESTNUT STREET (45' R/W) N02°45'07"E 301.50 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A LONG CHORD THAT BEARS N47°49'40"E, 28.32 FEET, AN ARC DISTANCE OF 31.47 FEET TO A POINT ON A LINE 5' SOUTH OF THE PLATTED NORTH LINE OF LOT 6, BEING THE EXISTING SOUTH RIGHT-OF-WAY LINE (45' RIGHT-OF-WAY) OF ASH STREET; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE S87°05'47"E 261.68 FEET TO A POINT 5' SOUTH OF THE PLATTED NORTHEAST CORNER OF SAID LOT 5; THENCE ALONG THE EAST LINE OF SAID LOT 5 S03°37'26"W 321.10 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE ALONG THE SOUTH LINE OF SAID LOTS 5 AND 6 N87°11'45"W 276.85 FEET TO THE POINT OF BEGINNING, CONTAINING 2.06 ACRES, MORE OR LESS, SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT

PARCEL 765-09570-000

ALL OF LOT 1 IN BLOCK 10 IN VALLEY VIEW SUBDIVISION, BEING PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE NORTH LINE OF SAID LOT 1 S87°05'24"E 83.70 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A LONG CHORD THAT BEARS S42°10'08"E, 28.25 FEET, AN ARC DISTANCE OF 31.36 FEET TO THE EAST LINE OF SAID LOT 1; THENCE ALONG SAID EAST LINE S02°45'07"W 306.24 FEET TO A FOUND IRON PIN AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE ALONG THE SOUTH LINE OF SAID LOT 1 N86°56'57"W 248.92 FEET TO A FOUND IRON PIN AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE WEST LINE OF SAID LOT 1 N26°49'32"E 356.14 FEET TO THE POINT OF BEGINNING, CONTAINING 1.32 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 30, 2005~~ December 15, 2005

R-PZD 05-1816: Planned Zoning District (SKATE PLACE CONDOMINIUMS, 366/367):
Submitted by PROJECT DESIGN CONSULTANTS for property located at the SOUTHWEST CORNER OF ASH AND CHESTNUT STREETS. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 3.38 acres. The request is to approve a Residential Planned Zoning District (R-PZD) with 34 dwelling units and an existing industrial structure.

Property Owner: HOMETOWN DEVELOPMENT

Planner: ANDREW GARNER

Findings:

Property Description: The subject property consists of approximately 3.38 acres located at the southwest corner of Ash and Chestnut Streets. Scull Creek flows south-north in the western portion of the site. The property is currently zoned I-1 and has approximately 32% tree canopy. The abandoned Skate Place skating rink building (18,140 square feet) and parking lot is located in the eastern portion of the site.

Proposal: The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. The proposed use of the site is for park/recreation uses (Planning Area 1), 34 condominium units (Planning Area 2), and industrial uses that would be allowed to remain at the abandoned building in the eastern portion of the site (Planning Area 3). The intent of the developer is to provide affordable housing units and revitalize an abandoned site in this industrial neighborhood. Residential uses would be screened from surrounding industrial uses by a landscape buffer and privacy fence on three sides, with the Scull Creek riparian area providing a buffer along the western portion of the development. Residential density over the entire 3.38-acre site would be approximately 10 units/acre and approximately 18 units/per acre in the 1.91-acre Planning Area 2. Building setbacks for the condominium development would be 10' off of Ash Street and Chestnut Street, 8' off the side, and 10' off of the rear property line.

Bulk and area criteria, while usually provided within the staff report, have been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Industrial; Multi-Family Residential	I-1, RMF-24
South	Industrial	I-1
East	Industrial	I-1
West	Scull Creek	I-1

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: Access to the proposed multi-family development and existing industrial structure would be directly off of Ash Street to the north, with Chestnut Street being extended south through the site connecting with Sycamore Street. Pedestrian access would be provided through sidewalks along the adjacent streets, with the Scull Creek Trail in the western portion of the site.

Adjacent Master Street Plan Streets: Ash Street and Chestnut Streets (local streets).

Street Improvements: Staff recommends the following street improvements:

- Ash Street - pavement 14' from centerline, curb, gutter, storm drain, and 6' sidewalk along the project frontage, with construction of a full 28' pavement section extending from the existing terminus of Ash Street into the project site.
- Chestnut Street – full street section to Master Street Plan Standards for a local street through the project site (minimum 50' right-of-way), transitioning to a 28' pavement only street section with curb, gutter, and storm drainage, extending south from the project line and connecting with Sycamore Street.

Parks: On November 7, 2005, the Park and Recreation Advisory Board recommended accepting money in lieu of land for 34 multi-family units for total park fees of \$13,362. Additionally, the developer agreed to donate 0.53 acre for a 20' wide trail corridor for Scull Creek Trail.

Tree Preservation:

Existing Canopy:	32%
Preserved Canopy:	17%
Required Canopy:	25%
Mitigation:	Required; 21 two-inch caliper trees (onsite planting)

Public Comment: Public comment was made from adjacent business owners on Ash Street that the proposed residential development would not be compatible with existing industrial uses in the immediate vicinity. It was discussed that trucking and transporting businesses in the immediate area operate semi-trucks, test air-horns, and operate other industrial business activities that cause high volumes of noise at all hours of the day and night that would be

a nuisance to residential use.

Recommendation: Staff recommends forwarding **R-PZD 05-1816** to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following street improvements:*
 - a. *Ash Street (local street) – pavement 14' from centerline, curb, gutter, storm drain, and 6' sidewalk along the project frontage, with construction of a 28' pavement section extending from the existing terminus of Ash Street into the project site.*
 - b. *Chestnut Street (local street) – full 28' street section to Master Street Plan Standards for a local street through the project site (minimum 50' right-of-way), transitioning to a 28' street section with curb, gutter, and storm drainage, extending south from the project line and connecting with Sycamore Street.*

PLANNING COMMISSION FOUND IN FAVOR OF THIS CONDITION (12/12/05).

2. The legal description needs to be signed by the applicant, their representative, or surveyor, and re-submitted to Planning Staff.
3. Revise the lighting note on page C3.0 to delete reference to 'utilizing high pressure sodium lighting or energy equivalent', and instead refer to 'lighting in compliance with the City's Lighting Ordinance'.
4. As part of the lighting plan the location of the proposed exterior lights on the buildings and in the parking lot is required to be disclosed.
5. Based on the proposed 69 parking spaces two bike racks are required. Locate them on the plans.
6. Trash enclosures shall be screened with access not visible from the street.
7. Revise the land use comparison table on page 5 of the booklet to be consistent with the zoning chart on the plats. It appears the zoning information on the plats was updated to incorporate revisions from Subdivision Committee but the table in the booklet was not updated.
8. If the existing building in Planning Area 3 undergoes substantial changes in the exterior facades, this planning area should be subject to the City's commercial design standards for the front façade.
9. The booklet should be revised for consistency to reflect Planning Area 3 as part of the

project, i.e., Page 1, Item B, include a description of the industrial uses that would be allowed in the summary description of the project.

10. On page 12, item 10 in the booklet, add a note that that the existing building square feet) would be retained and used for industrial uses.
11. Staff recommends removing Use Unit 19 as a conditional use from Planning Area 3. This change should be reflected on the plats and in the booklet.
12. Booklet, page 12, item O, last bullet point, delete 'the existing' and 'to remain', thereby reflecting the proposed and updated conditional uses allowed in Planning Area 3.
13. The existing structure in Planning Area 3 does not appear to have adequate parking spaces per the City ordinance. An additional seven spaces are required in Planning Area 3 as shown below:

PLANNING AREA 3 PARKING REQUIREMENTS

Use	Square Feet	Spaces Required	Spaces Provided
Industrial	15,890	13.2	
Office	2,250	9	
TOTAL		22.2 (+/- 30% 16-29 spaces)	9

14. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks.
15. Buildings shall be constructed generally as depicted in the building elevations in the booklet with the materials specified.
16. Parks fees for 34 Multi-Family Units are due in the amount of **\$13,362** prior to issuance of a building permit.
17. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklets and on the plats.
18. Street lights shall be installed with a maximum separation of 300 feet along Chestnut Street.
19. A floodplain development permit will be required.
20. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

21. Mitigation will be required to replace 7,963.89 square feet of canopy to mitigate up to the required 25%. The developer will be planting the required 21 (2) inch caliper trees on-site. A 3-year mitigation bond will be required in the amount of \$5,250. This amount needs to be deposited in the form of a letter of credit, bond, or check before signature of Final Plat.
22. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Standard Conditions of Approval:

23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
 24. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
 25. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
 26. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
-

Planning Commission Action: ☐ Tabled ☒ Forwarded to City Council ☐ Denied

Motion: Allen

Second: Myres

Vote: 5-3-0 (with Commissioners Clark, Graves, and Trumbo voting no)

Meeting Date: December 12, 2005

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 05-1816

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in compliance with the Master Development Plan PZD criteria established by the City Council. The General Plan 2020 designates this site Mixed Use. Rezoning this property to R-PZD 05-1816 with multi-family dwellings and retaining the existing industrial use of the Skate Place Building is consistent with the future land use plan designating a mix of uses in the area. Staff finds that the proposed residential, industrial, and preservation/park uses are compatible with surrounding industrial and residential land uses. Although existing industrial uses east of the site are more intense than residential uses, staff finds that the uses can coexist and that this immediate vicinity is a mixed use area that provides transition and variety of land uses in the same neighborhood.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure that adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow for industrial uses to remain in the existing industrial building on the eastern portion of the site, multi-family residential uses on a majority of the site, and park/preservation in the western portion of the site. This neighborhood is a transition between industrial uses along the Gregg Street corridor and multi-family uses west of this corridor. In general, this neighborhood of industrial zoning is bounded by Gregg Street to the east and Scull

Creek to the west. This vicinity is identified as mixed use on the Future Land Use Plan. The proposed master development plan includes a 12' landscape buffer and screening fence to provide an immediate buffer between the proposed residential uses and existing industrial uses. Staff finds that while the proposed residential uses are different than the existing industrial uses, they would not preclude or adversely impact the existing surrounding industrial uses, and with measures in place such as landscape screening and completing a new street into the site from the south, the proposed land use would be compatible with the surrounding land uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The eastern portion of the subject property is developed and contains the abandoned Skate Place building and parking lot, and the western portion of the site is wooded, with Scull Creek and associated riparian habitat and floodway located along the western border of the site. This PZD would preserve approximately 0.5-acre of the Scull Creek riparian area, develop the wooded area, and retain the existing structure for industrial use. The proposed residential development is concentrated out of the floodplain and riparian habitat, and is compatible with the natural environment.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed PZD would result in 34 new multi-family dwellings that would potentially generate 340 average daily vehicle trips. As part of this project, the developer would improve Ash Street along the project frontage to Master Street Plan standards to ensure safe and adequate vehicular and pedestrian access into the site. In addition, the developer would construct Chestnut Street through the site connecting Ash Street with Sycamore Street. With completion of these required street improvements staff finds that the intended land use would not create traffic congestion or burden the existing road network.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet have been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations are provided in order to describe the appearance of the community once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed PZD has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve compatibility with adjacent properties. Staff finds that the proposal herein does incorporate an acceptable level of compatibility. Density, maximum dwelling units, and landscaping have been addressed for each lot, tree preservation would meet City of Fayetteville standards, and the project would donate approximately 0.5-acre to the City to help complete the Scull Creek trail, allowing for a project that enhances the neighborhood.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Natural buffer areas of Tree Preservation and a trail corridor are proposed along the western property line. A 12' vegetative screen and privacy fence shall be placed along the eastern and southern boundaries of the subject property to screen the site from industrial uses.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local

collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress to the project would be provided off of Ash Street to the north and Chestnut Street to the south. The project would improve Ash Street to Master Street Plan standards along the project frontage, and would construct Chestnut Street through the project site connecting Ash Street with Sycamore Street. North-south street connection would be provided, and exterior street connectivity to the west and east is constrained by Scull Creek and the existing Skate Place building, respectively. Staff finds that with the proposed street improvements the project would provide safe ingress and egress to the site, would not cause adverse traffic impacts, and would meet the City's traffic circulation guidelines.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the proposed multi-family residential and industrial uses shall apply.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The Master Development Plan proposes screening along the eastern, southern, and western property lines. See staff's findings to item B.2., above.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks would be provided along Ash Street and Chestnut Street with this

development, pursuant to City code.

(7) *Street Lights.* As required by §166.03.

FINDING: All street lights installed shall be pursuant to the above-referenced code section, with a maximum of 300 feet spacing.

(8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund

shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public streets shall conform to city standards as indicated in the submitted statement of commitments. Streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: At this time, the project would not result in the construction of nonresidential facilities, other than the infrastructure required to support the multi-family lots. The dedication of parkland in the western portion of the site would occur at the time of final plat. The existing Skate Place building would remain onsite and used for industrial uses.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan has been submitted and would preserve approximately 17% of the onsite trees. Tree mitigation is required and would be provided entirely through onsite plantings in compliance with City ordinance.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: This PZD does not propose any commercial structures. The applicant proposes to retain the existing structure onsite for industrial uses. As a condition of approval for this project, if the existing structure undergoes substantial changes in the exterior facades, Planning Area 3 (containing the structure), would be subject to the City's commercial design standards for the front façade.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
 - (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.
- (F) *Covenants, trusts and homeowner associations.*
- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-

owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed Master Development Plan incorporates several of the above goals of a PZD. The Master Development Plan has a variety of uses consisting of multi-family dwellings, industrial, and park/preservation uses. The proposed zoning would not adversely affect the surrounding industrial neighborhood to the east and south, and would provide onsite buffers between industrial and residential uses. This type of residential housing fills a specific sector of the housing market that helps achieve variety and takes advantage of redevelopment and infill opportunity in this neighborhood. The introduction of residential use in addition to the existing industrial use is consistent with the Mixed Use designation of this site on the General Plan 2020. The major natural feature on the site is Scull Creek and its associated riparian area. This area would be donated as a trail/park to the City providing a link in the Scull Creek Trail which would be beneficial to the community.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1816, with three (3) Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

- (1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:
- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
 - (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
 - (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
 - (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
 - (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: This Master Development Plan meets the purpose and intent of the R-PZD requirements as this site is more appropriate to develop as a PZD rather than the existing industrial zoning, or a blanket rezoning of the entire site to a residential zoning. This Master Development Plan introduces residential housing on the edge of this industrial neighborhood. This site is identified as Mixed Use in the General Plan 2020. Consistent with the Guiding Policies for Mixed Use areas, this PZD would allow a mix of uses (industrial, residential, park/recreation) on the site integrated and designed in the planning process for a single development. The proposed residential uses would be compatible with surrounding development and would add variety to the housing types in Fayetteville. The preservation area in the western portion of the site would be a public park/trail for the use and enjoyment of this community and Fayetteville at large.

- (2) *Permitted uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

(4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in each Planning Area as proposed by the applicant. This project booklet, if approved, will remain on file in the Planning Division for comparison to future development on the property.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from Heavy Commercial/Light Industrial (I-1), to R-PZD 05-1816, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Mixed Use Area. Rezoning this property to R-PZD 05-1816, with the associated Master Development Plan, would introduce residential uses on the western edge of this industrial neighborhood. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the General Plan 2020 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed zoning is to a great degree consistent with many of the principles and policies in place. The policies encouraged by the General Plan 2020 call for a mixture of housing sizes and types, pedestrian-friendly neighborhoods, and expanding public trails and parks system. This project meets all of these goals.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: This site is more appropriate to develop as a PZD rather than the existing zoning, or a blanket rezoning of the entire site to a residential zoning. This Master Development Plan introduces residential housing on the edge of this industrial neighborhood, and a standard zoning would not allow for the type

of mixed use and density of the site as proposed. This site is identified as Mixed Use in the General Plan 2020, and the proposed Master Development Plan would help this vicinity start to achieve some of the identified goals of its Mixed Use designation.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff has determined that the proposed zoning would not create or appreciably increase traffic danger and congestion. See staff's findings in response to UDC Section 166.06(E) (6).

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Population density and use intensity are planned to increase in this area as identified in the General Plan 2020. The proposed rezoning would result in an increase of population density allowing 34 multi-family units on the currently zoned industrial site. Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created as a result of this rezoning and development.

City Fire Department – This site would be covered by Station No. 2 at 706 South Garland Street approximately 1.2 miles from the station. The Fire Department has a projected response time of 4 minutes to this development. It is anticipated that eight (8) calls for emergency response to this site once the development is completed and maximum build-out has occurred. The Fire Department anticipated that there should be no adverse effects on call volume or response time to this development.

City Police Department – It is the opinion of the Fayetteville Police Department that this PZD will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion.

City Engineering Division –

Water Service: Public water is adjacent to the site. There is a 6" waterline that runs along the platted right-of-way for Chestnut Avenue. An evaluation will need to be made at the time of construction plan submittal to determine if improvements are required to the existing water system.

Sewer Service: Sanitary sewer is adjacent to the site. There is an 8" sewer line that runs along the platted right-of-way for Chestnut Avenue. The

downstream system will need to be studied for any capacity issues.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

PC Meeting of December 12, 2005



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

LANDSCAPE REVIEW FORM

To: Fayetteville Planning Commission

From: Andrew Garner, Senior Planner

Date: December 6, 2005

ITEM #: LSD 05-1816 (Skate Place Apartments)

Applicable Requirements:

X	Off Street Parking
	Commercial Design Standards
X	Buffer and Screening
	T-540 Design Overlay

Plan Checklist:

Y = submitted by applicant

N = requested by city

NA = not applicable

Preliminary Submittal	Final Submittal	
		Off-Street Parking and Loading
Y		wheel stops / curbs
Y		irrigation
Y		edged landscape beds indicated
Y		species of plant material identified
Y		size of plant material at time of installation indicated
Y		interior landscaping
		narrow tree lawn (8' min. width, 17' min. length / 1 tree per 15 spaces)
		tree island (10' min. width / 1 tree per 12 spaces)
Y		perimeter landscaping
		side and rear property lines (5' landscaped)
		adjacent to street R.O.W (15' greenspace exclusive for landscaping / 1 street tree every 30 L.F., a continuous planting of shrubs and ground cover - 50% evergreen)
Y		soil amendments notes include that soil is amended and sod removed
Y		mulching notes indicate mulching around trees and within landscape beds.

<i>N</i>		planting details according to Fayetteville's Landscape Manual
Preliminary Submittal	Final Submittal	Commercial Design Standards
<i>NA</i>		greenspace adjacent to street R.O.W. (15' wide)
<i>Y</i>		street trees planted every 30' L.F. along R.O.W.
<i>NA</i>		outdoor storage screened with landscaping
		Buffer Strips and Screening
<i>Y</i>		landscaped area (12' min.)
<i>Y</i>		fence required
<i>NA</i>		outdoor storage screened with landscaping
<i>Y</i>		non-residential landscape screen when adjacent to residential zones
<i>NA</i>		landscape requirement for setback reduction
		Overlay District Requirements
<i>NA</i>		greenspace adjacent to street R.O.W. (25' wide)
<i>NA</i>		street trees planted every 30' L.F. along R.O.W.
<i>NA</i>		25% of total site area left in greenspace (80% landscaped)
<i>NA</i>		parking lots and outdoor storage screened with landscaping

Recommendation: Approval of the landscape plan associated with LSD 05-1765 with the following conditions.

Conditions of Approval:

1. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: December 6, 2005

ITEM #: PZD 05-1816: Planned Zoning District (Skate Place Apts.)

Requirements Submitted:

T	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area:	
acres	2.281
square feet	99344.49
Existing Tree Canopy:	
acres	0.727
square feet	31692.20
percent of site area	31.9%
Existing Tree Canopy Preserved:	
acres	0.387
square feet	16876.20
percent of total site area	16.98%
Percent Minimum Canopy Required:	25%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site currently has about 32% canopy cover. The area has an existing structure and a large portion of the Floodway from Scull**

Creek. Only two trees found on the site are significant by the City of Fayetteville's Landscape Manual. Other species found on the site are volunteers such as locust, elm, cedar, and bois d arc.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **All vegetation around the creek and found in the floodway will be preserved. Some additional runoff will be created by adding more impervious surfaces but the vegetation buffers should help maintain this issue.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Most properties around this project are industrial and will not be affected. Trees found close to the south property line will be root pruned and protected through this process. If damage or removal occurs the trees will be mitigated for as a high priority.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **Many factors affect the flexibility of this site such as; exiting structures, floodway and creek, and the overall shape of the lot.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The trees were inventoried by a certified arborist whom found most to be in poor to fair condition.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **The utilities have been moved to the front of the buildings to create less of an impact on the surrounding environment and trees.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **The trees proposed for protection will be found in two wide strips along the west property line along the floodway. All of these trees should remain protected through the entire process.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **Canopy will not be affected by the addition of roads. The trees proposed for removal are found in the areas where the structures are to be built.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required to replace 7,963.89 square feet of removed canopy.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **This project is proposed as a Planned Zoning District.**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions.**

Conditions:

1. **Mitigation will be required to replace 7,963.89 square feet of canopy to mitigate up to the required 25%. The developer will be planting the required 21 (2) inch caliper trees on-site. A 3-year mitigation bond will be required in the amount of \$5,250. This amount needs to be deposited in the form of a letter of credit, bond, or check before signature of Final Plat.**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3472

TO: Suzanne Morgan, Associate Planner
FROM: Matt Mihalevich, Park Planner
DATE: November 29, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: December 1, 2005
Item: PZD 05-1816 (Skate Place Apts., 366/367)
Park District: NW
Zoned: RPZD
Billing Name & Address: Hometown Properties

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	34 @ \$393 per unit = \$13,362
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- On November 7, 2005, The Parks and Recreation Advisory Board recommended accepting money in lieu of land for 34 multi-family units additionally, the developer agreed to donate .158 acres for a 20' wide trail corridor for Scull Creek Trail.
- Gregory Park is located within a half mile service area from development and will serve the recreational needs of this development. In the near future, Scull Creek Trail will connect the residents of this development with many parks and other amenities.
- Fees for 34 Multi-Family Units are due in the amount of \$13,362 prior to signing of the final plat.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: December 5, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: December 5, 2005 Re-zoning Review

PZD05-1816 (Skate Place Apts., 366/367)

These 3.38 acres are covered by Station 2 at 706 S Garland.

The property is 1.2 miles from the station with a projected response time of 4 minutes to this development.

The Fire Department anticipates 8 calls for service (5 EMS & 3 Fire/Other) once the development is completed and maximum build-out has occurred.

PZD05-1817 (The Commons at Walnut Crossing, 555)

These 6.45 acres are covered by Engine 6 on S Hollywood.

The property is 2.4 miles from the station with a projected response time of 4 minutes to this development. The Fire Department anticipates 12 calls for service (7 EMS & 5 Fire/Other) once the development is completed and maximum build-out has occurred.

There should be no adverse effects on our call volume or response time to this development.

RZN05-1833 (Bellafont, 174)

These 26.92 acres are covered by Station 4 on N Plainview.

This property is 1.6 miles from the station with a projected response time of 4.5 minutes to this property.

We do not figure calls for service on commercial property but typically they do not adversely affect our call volume.

RZN05-1834 (Vantage Square, 175)

These 13.47 acres are covered by Station 4 on N Plainview.

This property is 1.5 miles from the station with a projected response time of 4 minutes to the property.

We do not figure calls for service on commercial property, but typically they do not adversely affect our call volume.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

December 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Planned Zoning District **PZD 05-1816 Planned Zoning District (Skate Place Apts, 366/367)** submitted by Project Design Consultants for property located at the SW corner of Ash and Chestnut would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,


Captain William Brown
Fayetteville Police Department

PROJECT DESIGN CONSULTANTS, INC.

November 2, 2005

City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701
Attn: Mr. Andrew Garner

**RE: Skate Place Apartments
The Intersection between Ash Street and Chestnut Street
Fayetteville, AR**

Dear Mr. Garner:

The subject property mentioned above is being developed by Hometown Properties. Currently, the property is zoned I-1. The properties immediately to the north, south, east and west are also zoned I-1. We are proposing 34 apartments (2 bedrooms) on the site and rezoning the property in PZD-R. The site is approximately 2.44 acres.

It will have similar land usage and traffic counts; the appearance will blend better with other new developments being built; and there is no signage proposed as yet.

The existing building will be demolished prior to the start construction of the apartment building.

There are both water and sanitary lines along both Ash and Chestnut. There is a currently an existing 20 ft. water and sanitary sewer esment along the east side of Chestnut.

Scull Creek runs along the northwest side of our site; as does the flood zone.

Please find attached Patti Erwin's, Certified Arborist, tree inventory for our site.

If you have any further questions, please contact me or Mr. Jorge DuQuesne, PE at 479-248-1161.

Sincerely,



Amy C. Scott, ASLA
Vice President

Ash Street Site 2

Tree Inventory

<u>#</u>	<u>Species</u>	<u>DBH</u>	<u>Condition</u>	<u>Comments</u>
200	Chinese Elm	12	Fair	Corrective prune
201	Persimmon	9	Poor	Crooked trunk
202	Eastern Red Cedar	12	Fair	Deadwood
203	Eastern Red Cedar	9	Fair	
204	Black Locust	10	Fair	Deadwood
205	Chinese Elm	15	Poor	Almost dead
206	Chinese Elm	10	Poor	Bent trunk
207	Chinese Elm	16	Fair	Deadwood
208	Black Locust	8	Poor	
209	Chinese Elm	26	Poor	Crooked trunk
210	Eastern Red Cedar	10	Poor	Almost dead
211	Eastern Red Cedar	10	Poor	Almost dead
213	Eastern Red Cedar	10	Fair	Deadwood
214	Eastern Red Cedar	12	Fair	
215	Hackberry	15	Poor	Damaged trunk
216	Eastern Red Cedar	12	Fair	Deadwood
217	Chinese Elm	11	Fair	
218	Eastern Red Cedar	10	Poor	Almost dead
219	Chinese Elm	9	Poor	Lean
220	Black Locust	10	Fair	
221	Black Locust	13	Poor	Lean
223	Chinese Elm	18	Poor	Almost dead
224	Black Locust	12	Fair	Deadwood
225	Eastern Red Cedar	15	Fair	Deadwood
226	Black Locust	18	Good	Remove vine
227	Black Walnut	20	Good	
228	Black Walnut	20	Good	Remove vine
229	Black Locust	10	Poor	Decay
230	Chinese Elm	18	Poor	Lean
231	Chinese Elm	12	Poor	Lean
232	Hackberry	19	Good	
233	Eastern Redbud	9 DBL	Poor	Lean, decay
234	Black Locust	10	Fair	Corrective prune
235	Hackberry	8	Fair	
236	Black Walnut	12	Good	
237	Siberian Elm	12	Fair	
238	Black Locust	12 DBL	Poor	Decay
239	American Elm	12	Fair	
240	Slippery Elm	8	Poor	
241	Slippery Elm	8	Fair	
242	Black Walnut	10	Fair	
243	Chinese Elm	10	Poor	Lean
244	Hackberry	15	Good	
245	Black Locust	10	Poor	Diseased
246	Black Locust	10 DBL	Poor	Diseased
247	Black Locust	7	Poor	Damaged top
248	Black Walnut	10	Good	
249	Boxelder	12	Poor	Damaged top
250	Hackberry	18	Good	

251 Black Cherry	9	Fair	Remove vine, corrective prune
252 Black Locust	9	Poor	Trunk damage
253 Chinese Elm	8	Fair	
254 Chinese Elm	12	Poor	Lean
255 Black Locust	9	Fair	
256 Black Cherry	9	Poor	Lean
257 Black Cherry	9	Poor	Almost dead
258 Black Locust	7	Poor	Diseased
259 Boxelder	18	Fair	
261 Eastern Red Cedar	9	Fair	Deadwood
262 Black Cherry	7	Poor	Diseased
263 Black Locust	10	Poor	Diseased
264 Black Locust	7	Poor	Diseased
265 Black Locust	9	Poor	Decay
266 Black Locust	8	Poor	Decay
268 Black Locust	10	Fair	
270 Hackberry	10	Poor	Damaged top
271 Black Locust	9	Poor	Diseased
272 Black Cherry	7	Poor	Lean
273 Black Cherry	9	Poor	
274 Hackberry	9	Fair	
275 Hackberry	14	Fair	
276 Black Cherry	8	Fair	Slight lean
277 Black Cherry	8	Poor	
278 Chinese Elm	10	Poor	Almost dead
279 Black Locust	8	Poor	Diseased
280 Chinese Elm	8	Poor	Crooked trunk
281 Black Locust	7	Poor	Diseased
282 Black Locust	7	Poor	Diseased
283 Black Locust	7	Poor	Diseased
284 Black Cherry	7	Good	
285 Boxelder	18	Poor	
286 Honeylocust	10	Good	Remove vine
287 Honeylocust	12	Good	Remove vine
288 Hackberry	7	Poor	Lean
289 Honeylocust	9	Fair	
290 Hackberry	9	Fair	
408 Honeylocust	12	Fair	Remove vine
409 Chinese Elm	12	Fair	Deadwood
410 Hackberry	10	Poor	Lean
411 Honeylocust	10	Poor	Lean
412 White Ash	23 DBL	Fair	Deadwood
413/414 Bois D Arc	9Multi	Poor	Decay
415 White Ash	18	Poor	Crooked trunk, one-sided
416 White Ash	15	Poor	Crooked trunk
417 White Ash	18	Poor	Crooked trunk
418 Bois D Arc	12	Good	Deadwood
419 Bois D Arc	10 Multi	Poor	
420 Bois D Arc	10	Fair	Deadwood
421 Black Walnut	15	Poor	Decay in trunk
422 Hackberry	14	Fair	Coorectiive prune
423 Hackberry	12	Fair	

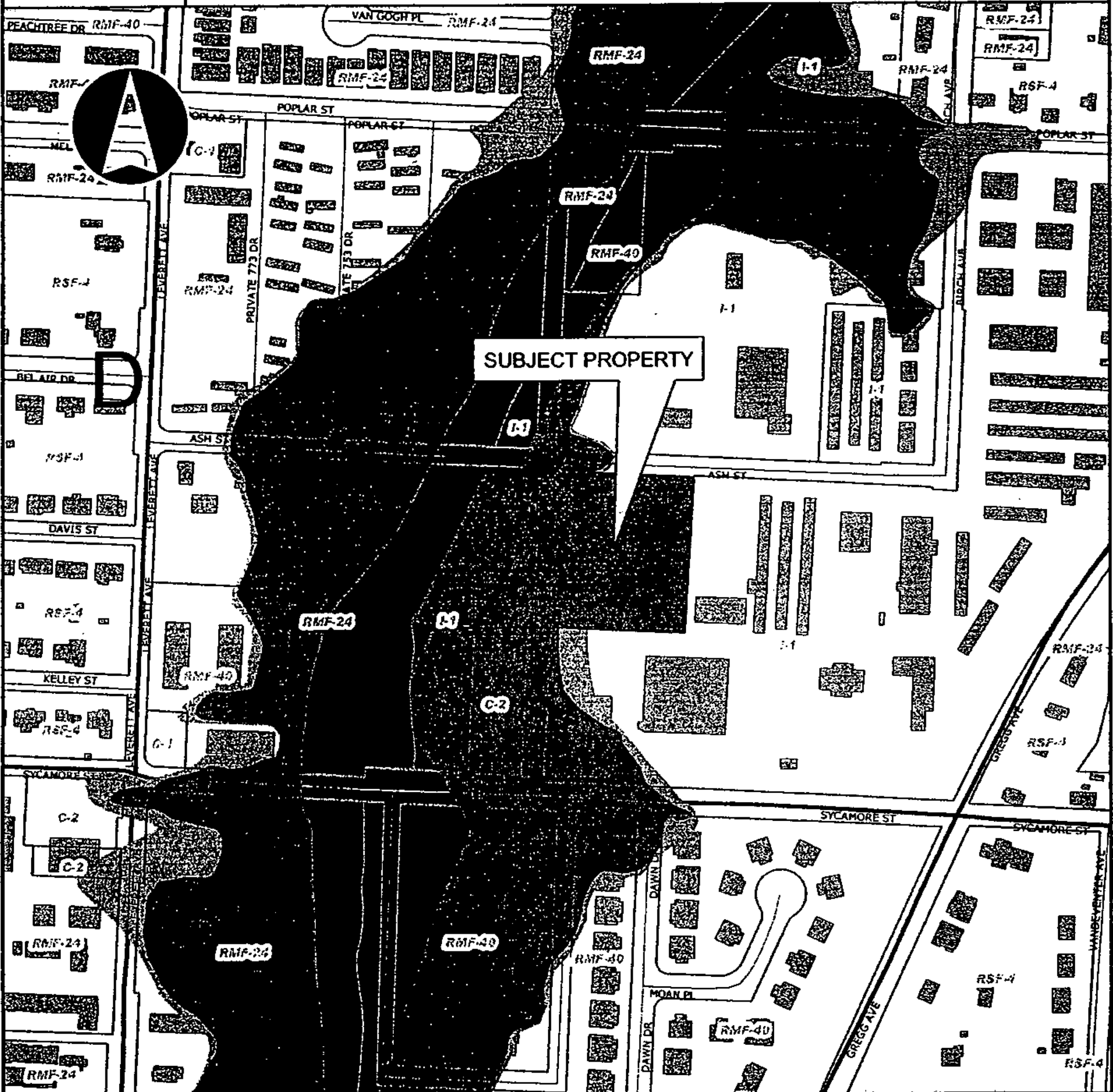
424 Black Locust	16	Fair	Remove vines
425 Black Locust	13	Good	
426 Boxelder	22	Poor	Decay
427 Silver Maple	14	Fair	
428 Sugar Maple	10	Fair	
429 Hackberry	11 DBL	Fair	Remove east trunk
430 Mulberry	20	Poor	

Prepared by Natural Resource Consultants
Patti Erwin
SO-1118

RPZD05-1816

SKATE PLACE APTS.

Close Up View



Legend

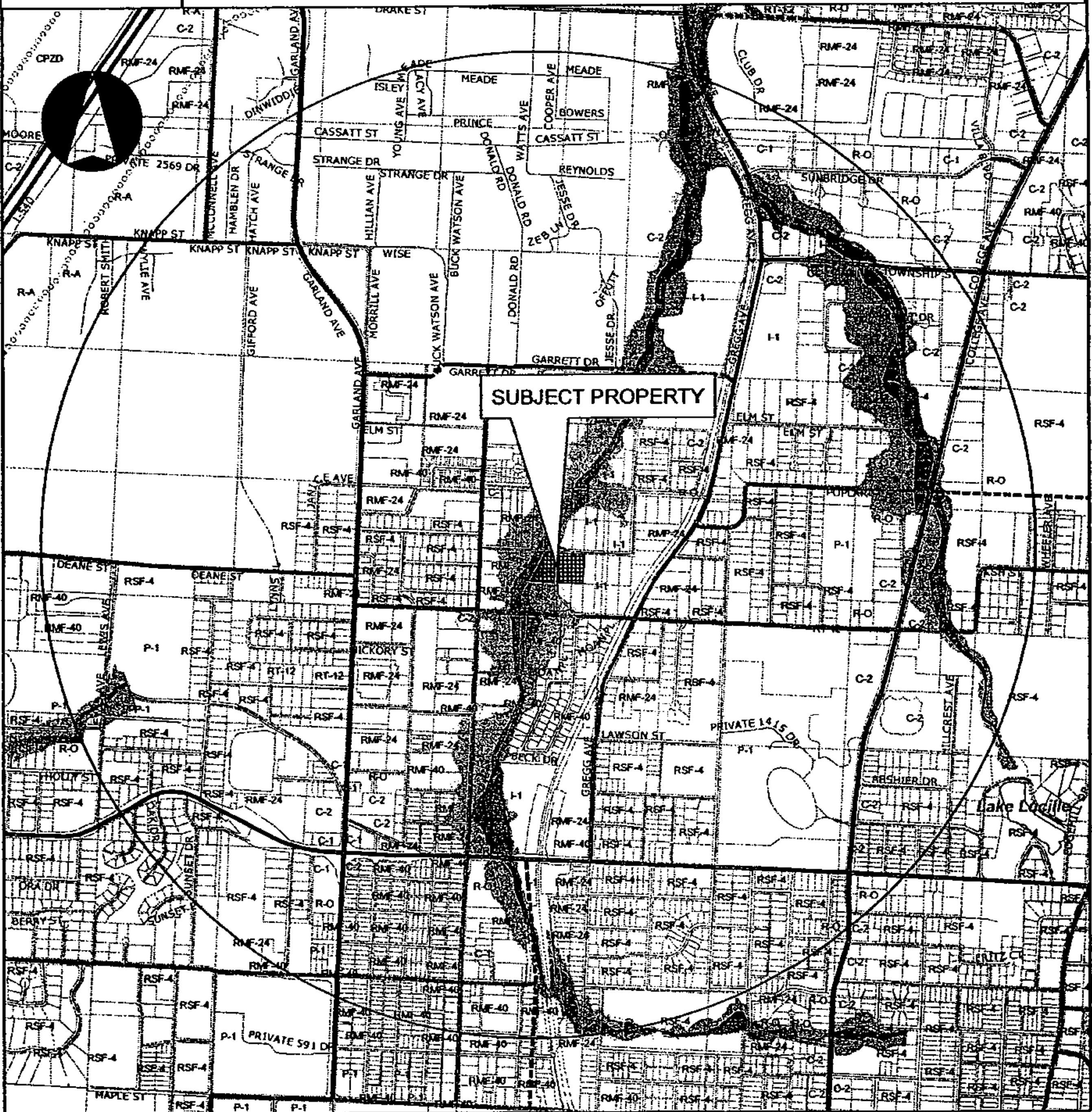
- Overlay District
- 100 YEAR FLOODWAY
- 500 YEAR FLOODWAY
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD05-1816
- vector.GOB.Footprint_2004

0 100 200 400 600 800 Feet

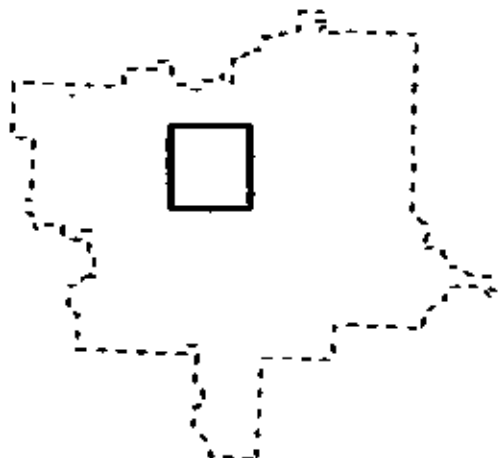
RPZD05-1816

SKATE PLACE APTS.

One Mile View



Overview



Legend

Subject Property
RPZD05-1816

Boundary

Planning Area
Overlay District
Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-Jan-06
City Council Meeting Date

Jeremy Pate *J.P.*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 05-1817: (The Commons at Walnut Crossing, 555): Submitted by Engineering Design Associates for property located north of Hwy 62W, Lots 137 & 138 of the approved Walnut Crossing R-PZD. The property is zoned R-PZD, Residential-Planned Zoning District, and contains approximately 6.45 acres. The request is to approve a Residential Planned Zoning District with 58 single family lots.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12.15.05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 12-16-05
City Attorney Date

Received in City Clerk's Office
ENTERED 12/15/05

[Signature] 12/16/05
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED 12/16/05

[Signature] 12/16/05
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: December 13, 2005

Subject: Rezoning for The Commons at Walnut Crossing (R-PZD 05-1817)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for The Commons at Walnut Crossing, submitted by Engineering Design Associates, Inc. This action will establish a unique zoning district for a residential subdivision on a 6.45-acre tract located north of Highway 62 West, identified as Lots 137 and 138 of the approved Walnut Crossing R-PZD.

BACKGROUND

The Walnut Crossing R-PZD (04-1181) was approved by City Council in November 2004. The subject property (The Commons area of Walnut Crossing) was conceptually identified as cluster homes with multi-family dwellings. The applicant now proposes to develop this property as a single-family subdivision requiring changes to the current R-PZD (04-1181), zoning. The applicant requests rezoning approval for a unique R-PZD zoning district with 58 clustered single-family lots.

DISCUSSION

The Planning Commission voted 7-0-1 in favor of this request on December 12, 2005, with Commissioner Ostner recusing. A PZD requires City Council approval as it includes zoning approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The proposed use of the site is for a variety of single-family houses designed to serve the median-income market. Specific building footprints and facades of the homes have been established by the developer who will build the homes, common area, landscaping and entry features to sustain a cohesive appearance. The Walnut Crossing development has incorporated a traditional craftsman style of architecture. Homes in The Commons that front onto a private and public street have been designed with two front facades as depicted in the project booklet. The proposed homes would be accessed directly off of a looping 20' wide one-way private street system. Finding the proposal compliant with the intent and spirit of the ordinance and compatible with developing land in the vicinity, staff and the Planning Commission recommend approval of this R-PZD.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1817, THE COMMONS AT WALNUT CROSSING, LOCATED NORTH OF HWY 62W, LOTS 137 & 138 OF THE APPROVED WALNUT CROSSING R-PZD, CONTAINING APPROXIMATELY 6.45 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-PZD, Residential- Planned Zoning District, to R-PZD 05-1817 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

**By: _____
DAN COODY, Mayor**

**By: _____
SONDRA SMITH, City Clerk**

EXHIBIT "A"
PZD 05-1817

LOT 137

COMMENCING FROM THE NORTHWEST CORNER OF THE SE 1/4, NW 1/4 SECTION 24, T-16-N, R-31-W; THENCE WITH A BEARING OF S 89°46'28" E A DISTANCE OF 294.84 FEET TO A POINT; WHICH IS THE POINT OF BEGINNING. THENCE WITH A BEARING OF S 89°46'28" E A DISTANCE OF 530.16 FEET TO A POINT; THENCE WITH A BEARING OF S 00°16'43" E A DISTANCE OF 60.00 FEET TO A POINT; THENCE WITH A BEARING OF S 89°46'28" E A DISTANCE OF 479.02 FEET TO A POINT; THENCE WITH A BEARING OF S 00°55'25" E A DISTANCE OF 347.78 FEET TO A POINT; THENCE WITH A BEARING OF S 89°41'26" W A DISTANCE OF 134.54 FEET TO A POINT; THENCE IN A NORTHWESTERLY DIRECTION WITH A NON TANGENT CURVE TURNING TO THE LEFT, HAVING A RADIUS OF 395.00 FEET, HAVING A CHORD BEARING OF N 52°54'54" W AND A CHORD DISTANCE OF 352.88, HAVING A INTERIOR ANGLE OF 53°03'43" AND AN ARC LENGTH OF 365.81 TO A POINT; THENCE WITH A BEARING OF N 79°26'46" W A DISTANCE OF 214.92 FEET TO A POINT; THENCE IN A WESTERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE LEFT, HAVING A RADIUS OF 325.00 FEET, HAVING A CHORD BEARING OF N 84°52'40" W AND A CHORD DISTANCE OF 61.53, HAVING A INTERIOR ANGLE OF 10°51'49" AND AN ARC LENGTH OF 61.62 TO A POINT; THENCE WITH A BEARING OF S 89°41'26" W A DISTANCE OF 214.84 FEET TO A POINT; THENCE IN A WESTERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 175.00 FEET, HAVING A CHORD BEARING OF N 81°28'58" W AND A CHORD DISTANCE OF 53.71, HAVING A INTERIOR ANGLE OF 17°39'13" AND AN ARC LENGTH OF 53.92 TO A POINT; THENCE WITH A BEARING OF N 72°39'21" W A DISTANCE OF 43.23 FEET TO A POINT; THENCE IN A NORTHWESTERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, HAVING A CHORD BEARING OF N 32°06'44" W AND A CHORD DISTANCE OF 39.00, HAVING A INTERIOR ANGLE OF 81°05'14" AND AN ARC LENGTH OF 42.46 TO A POINT; THENCE IN A NORTHERLY DIRECTION WITH A NON TANGENT CURVE TURNING TO THE LEFT, HAVING A RADIUS OF 325.00 FEET, HAVING A CHORD BEARING OF N 04°12'13" E AND A CHORD DISTANCE OF 47.92, HAVING A INTERIOR ANGLE OF 08°27'20" AND AN ARC LENGTH OF 47.96 TO A POINT; THENCE WITH A BEARING OF N 00°01'27" W A DISTANCE OF 54.28 FEET TO THE POINT OF BEGINNING.; CONTAINING 196943.67 SQUARE FEET OR 4.52 ACRES.

LOT 138

BEGINNING AT THE NORTHWEST CORNER OF THE SE 1/4, NW 1/4, SECTION 24, T-16-N, R-31-W : THENCE WITH A BEARING OF S 89°46'28" E A DISTANCE OF 244.84 FEET TO A POINT; THENCE WITH A BEARING OF S 00°01'27" E A DISTANCE OF 54.50 FEET TO A POINT; THENCE IN A SOUTHERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 275.00 FEET, HAVING A CHORD BEARING OF S 09°18'54" W AND A CHORD

DISTANCE OF 89.25, HAVING A INTERIOR ANGLE OF $18^{\circ}40'43''$ AND AN ARC LENGTH OF 89.65 TO A POINT; THENCE WITH A BEARING OF S $18^{\circ}39'16''$ W A DISTANCE OF 284.99 FEET TO A POINT; THENCE WITH A BEARING OF S $89^{\circ}41'26''$ W A DISTANCE OF 136.16 FEET TO A POINT; THENCE WITH A BEARING OF N $00^{\circ}25'44''$ W A DISTANCE OF 414.31 FEET TO THE POINT OF BEGINNING.; CONTAINING 83929.90 SQUARE FEET OR 1.93 ACRES.

DRAFT



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: December 5, 2005

PZD 05-1817: Planned Zoning District (THE COMMONS AT WALNUT CROSSING, 555): Submitted by ENGINEERING DESIGN ASSOCIATES for property located NORTH OF HWY 62W, LOTS 137 & 138 OF THE APPROVED WALNUT CROSSING R-PZD. The property is zoned RESIDENTIAL PLANNED ZONING DISTRICT (R-PZD) and contains approximately 6.45 acres. The request is to approve a Residential Planned Zoning District with 58 single family lots.

Property Owner: RAUSCH-COLEMAN HOMES

Planner: ANDREW GARNER

Findings:

Background: The Walnut Crossing R-PZD (04-1181) was approved by the Fayetteville Planning Commission in September 2004, and subsequently by the City Council in November 2004. The subject property (The Commons area of Walnut Crossing) was conceptually identified as cluster homes allowing multi-family dwellings, but the detailed development plans were not approved. The applicant now proposes to develop this property with some slight changes to the zoning than previously approved.

Property Description: The subject property consists of approximately 6.45 acres located along the northern border of the approved Walnut Crossing R-PZD (Lots 137 and 138) in southeast Fayetteville. The tract consists of agricultural land, with no trees found on the Commons area of Walnut Crossing. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Vacant, agricultural	R-A, Residential Agricultural
South	Approved Walnut Crossing Subdivision (under construction)	R-PZD 04-1181 (Walnut Crossing)
East	Vacant, agricultural	R-A, Residential Agricultural
West	Vacant, agricultural	Planning Area

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for cluster home development with a variety of single-family houses designed to serve the median-income market. Each house consists of two-car garages, spaces for two cars in the driveway, and an additional parking track provided to many of the homes. Specific building footprints and facades of the homes will be established by the developer who will build the homes, common area, and entry features to sustain a cohesive appearance. The Walnut Crossing development has incorporated a traditional craftsman style of architecture. Private streets, common area, and front yard landscaping will be maintained by a Property Owners Association to retain a high level of visual appeal. Some of the homes will front onto a private street and a public street. These homes have been designed with two front facades as depicted in the project booklet. Building setbacks are 15' off of a public right-of-way, with 0' setbacks off of the rear, side, or private streets with a minimum 10' building separation. Many of the lots have no public frontage, and the minimum lot width is 16.61'.

Bulk and area criteria, while usually provided within the staff report, have been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Access: Access to the proposed development will be provided through the Walnut Crossing Master Planned Development to the south off of Holland Drive and Lynn Street. From these two main streets, the proposed houses would be accessed off of a looping 20' wide one-way private street system. Some additional off-street parking is proposed for guest parking.

Water & Sewer: Water and sewer lines are being extended to serve the development.

Adjacent Master Street Plan Streets: None.

Parks: The Park Recreation Advisory Board (PRAB) voted to accept a land dedication of 4.34 acres for 181 single family lots on July 12, 2004 for the overall Walnut Crossing PZD. The developer has provided park land in the amount of 5.02 acres, an excess donation of .68 acres. No banking of the additional land has been requested by the developer. The PRAB approval took into consideration the development of 44 single family cluster homes. The current submittal includes 58 cluster homes, making a difference of 14 single family units. The current dedication of 5.02 acres is adequate to meet the requirements for the addition of 14 single family lots proposed as part of the Crossings.

Tree Preservation: This PZD was approved in November 2004 with the canopy calculations listed below. This phase of the project has no trees found on the site. At the time of Final Plat 39,458 square feet of tree canopy will be mitigated for on-site. No less than (182) 2-inch caliper trees shall be planted with a 3-year mitigation bond equaling \$45,500 deposited with the City of Fayetteville Business Office.

Walnut Crossing R-PZD Tree Preservation

Existing Canopy: 9.95%
Preserved Canopy: 7.58%
Required Canopy: 9.95%

Recommendation: Staff recommends forwarding **R-PZD 05-1817** to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Signs shall be placed on the private one-way streets specifying no parking allowed on the street on trash days as specified by the City's Solid Waste Division.
2. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklet and on the plats.
3. A street planting plan shall be submitted before final plat as part of requirements toward meeting both mitigation and landscaping goals.
4. All streets (public and private) shall meet construction standards as required by City Engineering.
5. The zoning criteria, development standards, and commitments contained within the submitted project plat and project booklet shall be considered binding to the property by ordinance, and all criteria established herein and with R-PZD 04-1181 shall remain in effect unless modified by ordinance of the City Council.
6. For those lots containing "double" frontages (lots 165-171; 190-191), homes shall be constructed that meet the intent of the submitted documents, in which these lots have two "fronts".
7. All information shall be installed, inspected, and accepted by the City of Fayetteville (including private streets) prior to final plat review.

Standard Conditions of Approval:

8. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
9. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's

current requirements.

10. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
11. Prior to application of signatures on the final plat, all punch list items shall be completed.
12. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
13. All street names shall be approved by the 911 coordinator.
14. Preliminary Plat approval shall be valid for one calendar year.

Planning Commission Action: ☐ Tabled ☒ Forwarded to City Council ☐ Denied
Motion: Lack
Second: Clark
Vote: 7-0-1 (with Commissioner Ostner recusing)

Meeting Date: December 12, 2005

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with R-PZD 05-1817

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;

FINDING: Staff finds the application to be in compliance with the Master Development Plan PZD criteria established by the City Council. The General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 05-1817 with a variety of single family dwelling units and density is consistent with the land use plan and compatible with surrounding land uses and density within surrounding developing property associated with the existing overall Walnut Crossing R-PZD.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow for high-density single-family detached development. This is a lower density than the multi-family uses approved for this site as part of the overall Walnut Crossing R-PZD approval in November 2004. The proposed zoning criteria to provide for high-density single-family detached dwellings would provide a compatible transition from the adjacent Walnut Crossing R-PZD property to the south. The proposed density, while higher than immediately surrounding land not a part of the Walnut Crossing R-PZD, is a compatible density which also allows more affordable housing, a primary goal of the applicant.

- (5) Whether the subject land is suitable for the intended use and is compatible with the

natural environment;

FINDING: This property is part of the overall Walnut Crossing R-PZD which preserves several distinct grouping of significant trees including a large area along the Farmington Branch Creek, and two grouping that allow for access to an onsite public park. The Commons at Walnut Crossing were identified for use as cluster homes allowing multi-family development, and were anticipated as being developed at the time of the Walnut Crossing R-PZD approval.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed PZD would result in slightly less traffic than the current zoning. The current zoning would allow for 59 multi-family dwellings and the proposed zoning would allow for 53 single-family dwellings. With an average of 10 average daily vehicle trips per residential unit, the proposed zoning would result in 60 fewer average daily vehicle trips than the current zoning. Therefore traffic impacts would be less than anticipated under the current zoning and would not adversely affect the road network.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations are provided in order to describe the appearance of the community once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all

applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. Staff finds that the proposal herein does incorporate an acceptable level of compatibility. Density, maximum dwelling units and building area have been addressed for each lot, and tree preservation is proposed to meet City of Fayetteville standards, allowing for a project that enhances the community as a whole as part of the Walnut Crossing R-PZD.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required as part of this development. A conceptual street planting plan has been presented, locating required mitigation trees. A detailed street planting plan is required prior to final plat approval of the overall Walnut Crossing PZD.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the

planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Access to this site will be provided through the Walnut Crossing Master Planned Development to the south off of Holland Drive and Lynn Street. From these two main streets, the proposed houses would be accessed off of a looping 20' wide one-way private street system. Some additional off-street parking is proposed for guest parking. Sidewalks would be constructed on both sides of public streets for pedestrian access, and it is anticipated that pedestrian use of the 20' wide private streets would not necessitate sidewalks due to the low volume and low speed of traffic.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Standard parking ratios for the proposed single-family residential uses shall apply.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: Screening is not required as part of this development. A conceptual street planting plan has been presented, locating required mitigation trees. A detailed street planting plan is required prior to final plat approval of the overall Walnut Crossing PZD.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are to be constructed along both sides of all interior public streets.

- (7) *Street Lights.* As required by §166.03.

FINDING: All street lights installed shall be pursuant to the above-referenced code section, with a maximum of 300 feet spacing.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets shall conform to city standards as indicated in the submitted statement of commitments. Streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: The project would not result in the construction of nonresidential facilities, other than the utilities, parks, and other public services supporting the single-family lots.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan was submitted and approved as part of the Walnut Crossing R-PZD in November 2004 and included the subject property.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Not applicable. This PZD does not propose any commercial structures.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be

sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 - (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed Master Development Plan and the overall Walnut Crossing PZD incorporate several of the above goals of a PZD. The Walnut Crossing PZD allows a variety of single-family dwellings and densities within the overall master-planned community. The Commons portion of the Walnut Crossing PZD provides a higher density clustering of single-family dwellings on small lots, allowing for more usable common open space and greater preservation of natural amenities on other areas of the overall Walnut Crossing community. The Master Development Plan has changes in density over the site, which encourages a variety of sizes of single-family dwellings. The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout. Public improvements provided with the Walnut Crossing PZD will ensure future street connectivity in the area.

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 05-1817, with one (1) Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: This Master Development Plan for the Commons and the overall Walnut Crossing R-PZD meet the purpose and intent of the R-PZD requirements. A general rezoning would not have allowed the type of development the applicant is pursuing, based on the bulk and area requirements of typical zoning districts. The proposed rezoning of the Commons portion of Walnut Crossing is necessary to allow for the unique detached single family development as proposed with 53 single-family lots at a density of 6.99 units/acre, with a variety of setbacks and unique lot lines, as opposed to the currently approved two lots (Lots 137 and 138) allowing multi-family dwellings. Also see Staff Finding to Section (A) above discussing how this project meets the purpose and intent of the PZD ordinance.

- (2) *Permitted uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.
- (4) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in the one Planning Area as proposed by the applicant. This project booklet, if approved, will remain on file in the Planning Division for comparison to future development on the property.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from R-PZD 04-1181 to R-PZD 05-1817, with the adoption of the associated Master Development Plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as a Mixed Use Area. Rezoning this property to R-PZD 05-1817, with the associated Master Development Plan, would allow for a variety of single-family residential development. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting

many of the goals of the General Plan 2020 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed zoning is to a great degree consistent with many of the principles and policies in place. The policies encouraged by the General Plan 2020 call for a mixture of housing sizes and types, pedestrian-friendly neighborhoods, and expanding public trails and parks system. This project as part of the Walnut Crossing PZD meets all of these goals, and provides an internal transition of residential density that attempt to address adjacent land uses.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: A general rezoning would not have allowed the type of development the applicant is pursuing, based on the bulk and area requirements of typical zoning districts. The proposed rezoning of the Commons portion of Walnut Crossing is necessary to allow for the unique detached single family development as proposed with 53 single-family lots at a density of 6.99 units/acre, with a variety of setbacks and unique lot lines, as opposed to the currently approved two lots (Lots 137 and 138) allowing multi-family dwellings.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed PZD would result in slightly less traffic than the current zoning. The current zoning would allow for 59 multi-family dwellings and the proposed zoning would allow for 53 single-family dwellings. With an average of 10 average daily vehicle trips per residential unit, the proposed zoning would result in 60 fewer average daily vehicle trips than the current zoning. Therefore traffic impacts would be less than anticipated under the current zoning and would not adversely affect the road network.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Population density and use intensity of this site were evaluated as part of the Walnut Crossing PZD. The proposed rezoning would result in a reduction of population density from 9.15 residential units per acre to 6.99 units per acre.

Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created as a result of this rezoning and development.

City Fire Department – This site is covered by Engine 6 on South Hollywood Street. The site 2.4 miles from the station with a projected response time of 4 minutes to this development. The Fire Department anticipates 12 calls for emergency response (once the development is completed and maximum build-out has occurred. The Fire Department anticipated that there should be no adverse effects on call volume or response time to this development.

City Police Department – It is the opinion of the Fayetteville Police Department that this PZD will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion.

City Engineering Division -

Water and Sewer Service: Public water and sewer are being made available to the site through the Walnut Crossing Subdivision. An evaluation will need to be made at the time of construction plan submittal on how the water and sewer systems are to be connected with the existing systems.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: December 6, 2005

ITEM #: PZD 05-1817: Planned Zoning District (The Commons at Walnut Crossing)

Canopy Measurements:

Total Site Area	
acres	43.30
square feet	1,886,165
Existing Tree Canopy	
acres	3.81
square feet	165,963
percent of site area	9.95%
Existing Tree Canopy Preserved	
acres	2.90
square feet	126,505
percent of total site area	7.58%
Percent Minimum Canopy Required	9.95%

Background:

This PZD was approved in November 2004 with the canopy calculations found above. This phase of the project has no trees found on the site. At the time of Final Plat 39,458 square feet of tree canopy will be mitigated for on-site. No less than (182) 2-inch caliper trees shall be planted with a 3-year mitigation bond equaling \$45,500 deposited with the City of Fayetteville Business Office

- A street tree planting plan shall be submitted before final plat as part of requirements toward meeting both mitigation and landscaping goals.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

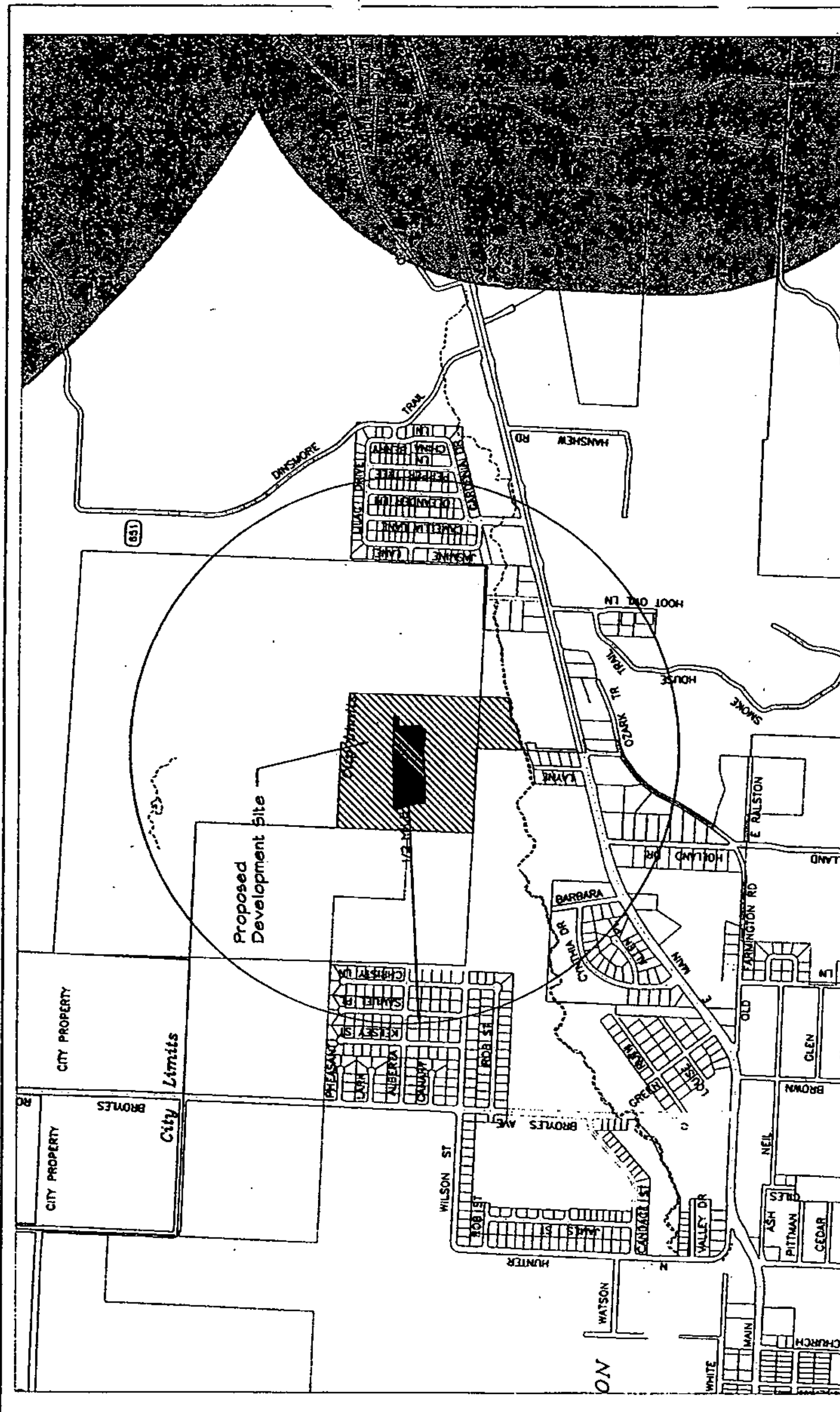
TO: Andrew Garner, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: November 29, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: December 1, 2005
Item: PZD 05-1817 Walnut Crossing
Park District: NW
Zoned: PZD
Billing Name & Address: Rausch Coleman Homes

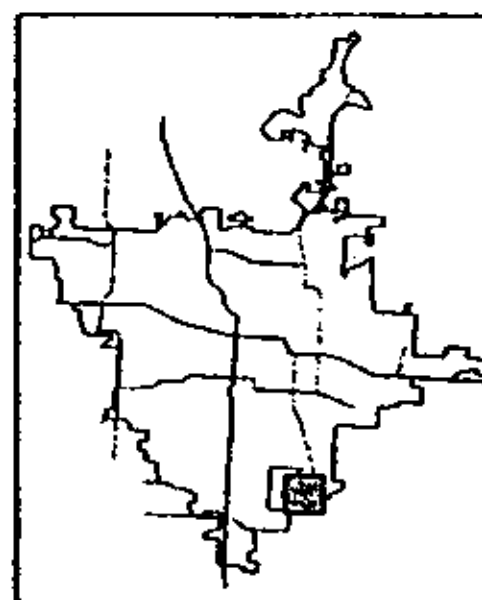
	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- PRAB voted to accept a land dedication of 4.34 acres for 181 single family lots on July 12, 2004. The developer has provided park land in the amount of 5.02 acres, an excess donation of .68 acres.
- The PRAB approval took into consideration the development of 44 single family cluster homes. The current submittal includes 53 cluster homes, making a difference of 9 single family units.
- The current dedication of 5.02 acres is adequate to meet the requirements for the addition of 9 single family lots.



PROXIMITY MAP	Walnut Crossing	Rausch Coleman
DATE	10/1/05	10/1/05
DRAWN BY	10/1/05	10/1/05
CHECKED BY	10/1/05	10/1/05
APPROVED BY	10/1/05	10/1/05



- Legend**
- Existing Park Land
 - Community Park Service Area
 - Neighborhood Park Service Area
 - Mini Park Service Area

Walnut Crossing





Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: December 5, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: December 5, 2005 Re-zoning Review

PZD05-1816 (Skate Place Apts., 366/367)

These 3.38 acres are covered by Station 2 at 706 S Garland.

The property is 1.2 miles from the station with a projected response time of 4 minutes to this development.

The Fire Department anticipates 8 calls for service (5 EMS & 3 Fire/Other) once the development is completed and maximum build-out has occurred.

PZD05-1817 (The Commons at Walnut Crossing, 555)

These 6.45 acres are covered by Engine 6 on S Hollywood.

The property is 2.4 miles from the station with a projected response time of 4 minutes to this development. The Fire Department anticipates 12 calls for service (7 EMS & 5 Fire/Other) once the development is completed and maximum build-out has occurred.

There should be no adverse effects on our call volume or response time to this development.

RZN05-1833 (Bellafont, 174)

These 26.92 acres are covered by Station 4 on N Plainview.

This property is 1.6 miles from the station with a projected response time of 4.5 minutes to this property.

We do not figure calls for service on commercial property but typically they do not adversely affect our call volume.

RZN05-1834 (Vantage Square, 175)

These 13.47 acres are covered by Station 4 on N Plainview.

This property is 1.5 miles from the station with a projected response time of 4 minutes to the property.

We do not figure calls for service on commercial property, but typically they do not adversely affect our call volume.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

C.4
R-PZD 05-1817
The Commons at Walnut Crossing
Page 27 of 32

December 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Planned Zoning District **PZD 05-1817 Planned Zoning District (The Commons at Walnut Crossing, 555)** submitted by Engineering Design Associates for property located N of Hwy 62W, Lots 137 & 138 of the approved Walnut Crossing R-PZD would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Captain William Brown
Fayetteville Police Department

RESPONSE LETTER

CITY COMMENTS TO "THE COMMONS AT WALNUT CROSSING" FOR THE SUBDIVISION COMMITTEE REVIEW HELD ON 12-01-05

DATE: 12-5-05

COMMENTS FROM ANDREW GARNER, SENIOR PLANNER, AND BRENT O'NEAL DATED 11-29-05. EACH RESPONSE TO COMMENT IS IN BOLD AND IN PARENTHESIS.

Conditions to Address/Discuss:

1. Prior to Planning Commission, the applicant shall establish a minimum lot width, and specify where the lot width shall be measured. **(MINIMUM LOT WIDTH HAS BEEN ESTABLISHED AND SPECIFIED. SEE SHEET PP-1)**
2. The plat specifies that Minimum Lot Width varies, and the booklet specifies a Minimum Lot Width of 38'. Revise the booklet to be consistent with the plat, or vice versa. **(BOOKLET AND PLAT HAS BEEN REVISED TO REFLECT SAME VERBAGE)**
3. Sheet 1 of 2: The density zoning criteria specifies two different densities. Please clarify, or include one overall density for the project (58 units/6.45 acres = 8.99 units/acre). **(TWO DENSITIES ARE GIVEN, SEE TABLE ON SHEET PP-1 FOR CLARIFICATION)**
4. Include the zoning of adjacent property owners on the preliminary plat, sheet 1 of 2. **(ZONNING HAS BEEN ADDED TO THE PRELIMINARY PLAT SHEET PP-1, SITE/UTILITY SHEET SI-1, AND GRADING SHEET GP-1).**
5. Signs shall be placed on the private one-way streets specifying no parking allowed on the street on trash days as specified by the City's Solid Waste Division. **(SEE NOTE #8 ON SHEET PP-1, SIGNS AND NOTATION HAS BEEN ADDED TO PLANS SEE SITE/UTILITY SHEET SI-1)**
6. The applicant shall submit 28 sets of the plats, 13 sets of the project booklet, and elevations, along with any other correspondence and information the applicant would request the Planning Commission review. **(APPLICANT WILL COMPLY)**
7. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklet and on the plats. **(SEE NOTE #7 ON SHEET PP-1)**
8. A Street planting plan shall be submitted before final plat as part of requirements towards meet both mitigation and landscaping goals. **(APPLICANT WILL COMPLY)**

Standard Conditions of Approval:

9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives-AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications). **(ALL PLAT REVIEW AND SUBDIVISION COMMENTS HAVE BEEN ADDRESSED. COMMENTS FROM UTILITY COMPANIES HAVE BEEN COORDINATED)**
10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements. **(APPLICANT WILL COMPLY)**
11. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground. **(ALL UTILITIES WILL BE LOCATED UNDERGROUND)**
12. Prior to application of signatures on the final plat, all punch list items shall be completed. **(APPLICANT WILL COMPLY)**
13. All overhead electric lines under 12kv shall be relocated underground. All proposed utilities shall be located underground. **(ALL UTILITIES WILL BE LOCATED UNDERGROUND)**
14. All street names shall be approved by the 911 coordinator. **(APPLICANT WILL COORDINATE WITH THE 911 COORDINATOR)**
15. Preliminary Plat approval shall be valid for one calendar year. **(PRELIMINARY PLAT APPROVAL SHALL BE VALID FOR ONE CALENDAR YEAR)**

NOTE: ALL RED LINE COMMENTS FROM BRENT O'NEAL MADE DIRECTLY ON PLAN SET HAVE BEEN ADDRESSED AND REVISED.

Patrick Hargus, RLA
Engineering Design Associates

Patrick Hargus...

ENGINEERING DESIGN ASSOCIATES, P.A.
134 WEST EMMA AVENUE
SPRINGDALE, ARKANSAS 72764
479-756-1266
Fax: 479-756-2129

November 15, 2005

Brent O'Neal, PE
Staff Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

**RE: The Commons at Walnut Crossing
Fayetteville, Arkansas
EDA # 1051**

Dear Mr. O'Neal:

This letter is in reference to the requirement to submit a drainage report for the above referenced project. The area that this project covers was included in the drainage report submitted by Engineering Services, Inc. for the entire Walnut Crossing project and therefore the downstream drainage system is designed to handle the anticipated runoff from this project.

Please contact me at your earliest convenience if you have any questions.

Respectfully,



Steve A. Hesse
Professional Engineer

xc: Kim Hesse, Rausch Coleman Homes
file

RPZD05-1817

THE COMMONS AT WALNUT CROSSING

Close Up View

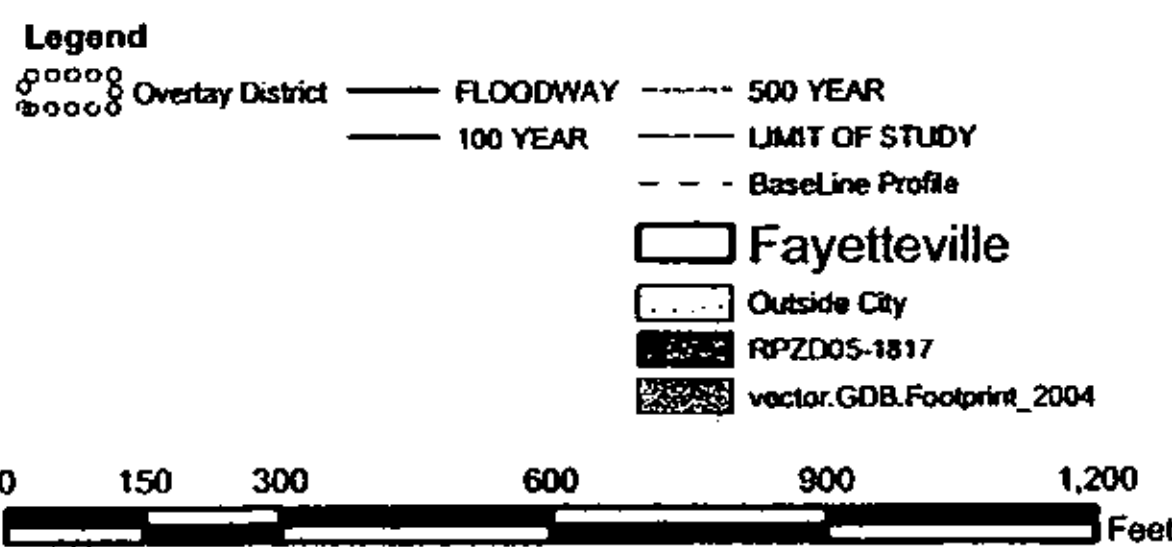


SUBJECT PROPERTY

FARMINGTON BRANCH TRIBUTARY

FARMINGTON BRANCH

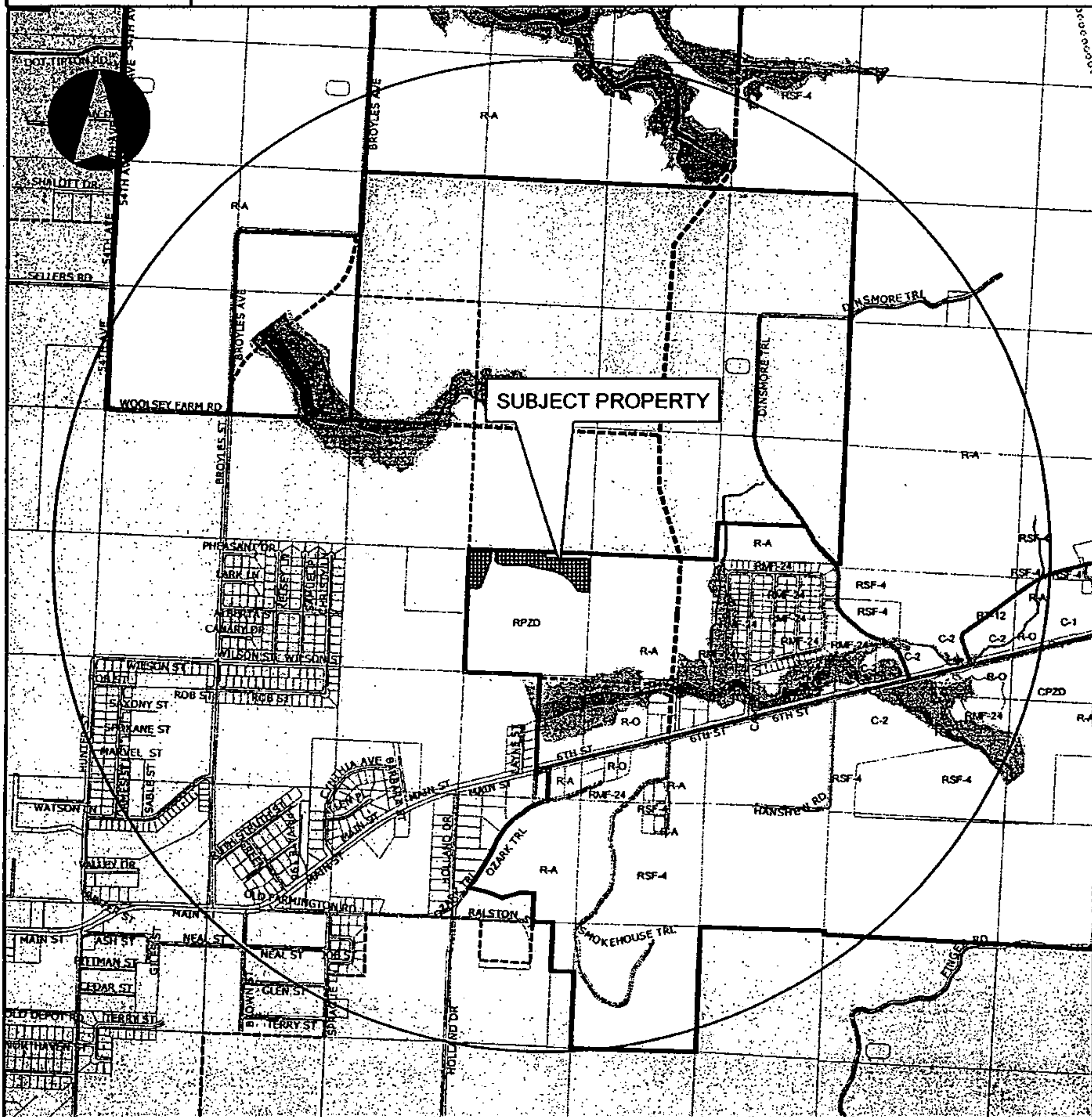
LIMIT OF RETAINED STUDY



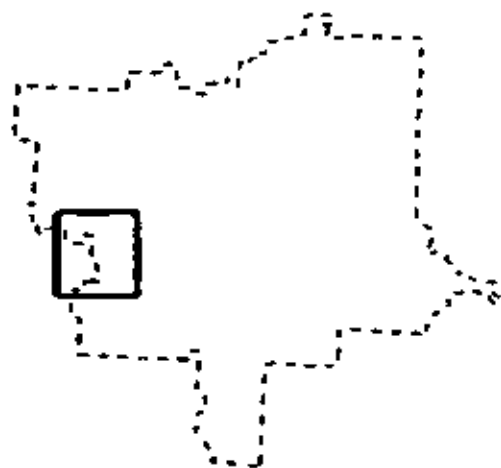
RPZD05-1817

THE COMMONS AT WALNUT CROSSING

One Mile View



Overview



Legend

Subject Property

RPZD05-1817

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

1

Miles

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

3-Jan-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1833 (Bellafont, 174): Submitted by H2 Engineering, Inc. for property located north of Joyce Boulevard and south of Bellafont Gardens. The property is zoned R-O, Residential Office, and C-2, Thoroughfare Commercial, and contains approximately 25.29 acres. The request is to rezone the subject property to C-3, Central Commercial.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

12-16-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

12-16-05

[Signature]
Finance and Internal Service Director

12-16-05
Date

Received in City Clerk's Office
ENTERED
12/16/05

[Signature]
Mayor

12/16/05
Date

Received in Mayor's Office
ENTERED
12/16/05

Comments:

City Council Meeting of January 03, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 15, 2005

Subject: Rezoning for Bellafont (RZN 05-1833)

RECOMMENDATION

The Planning staff recommends approval of the proposed rezoning from R-O, Residential Office, and C-2, Thoroughfare Commercial, to C-3, Central Commercial, on approximately 25.29 acres with the acceptance of the Bill of Assurance offered by the applicant to address those criteria of the C-3 zoning district.

BACKGROUND

The subject property contains four parcels consisting of 25.29 acres. The property is owned by the Barber Group and is located north of Joyce Boulevard on either side of Vantage Drive, a recently constructed street. A majority of the property is zoned C-2 though a small portion of property to the southeast of the property and within a dedicated drainage easement is zoned R-O. Adjacent uses include multi-family development to the north and east, as well as commercial development to the east and south, including the U.S. Post Office and Lindsey Office building, currently under construction.

The applicant is requesting the property be rezoned from R-O, Residential Office and C-2, Thoroughfare Commercial, to C-3, Central Commercial to facilitate development on the property at a height greater than that allowed within the C-2 zoning district. Although the applicant desires to modify the zoning district to relieve height restrictions on the property, a rezoning will also change the development regulations and other zoning requirements of the property. To reduce the potential impacts of this zoning change, the applicant has submitted a Bill of Assurance.

DISCUSSION

This item was heard at the regular Planning Commission on December 12, 2005. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1833 FOR APPROXIMATELY
25.29 ACRES LOCATED NORTH OF JOYCE BOULEVARD, WEST
OF VENTURE ROAD, AND SOUTH OF BELLAFONT GARDENS
FROM R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE
COMMERCIAL TO C-3, CENTRAL COMMERCIAL.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From R-O, Residential Office, and C-2, Thoroughfare Commercial to C-3,
Central Commercial, as shown on Exhibit "A" Attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 05-1833

SURVEY DESCRIPTION OF TRACT A

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25 FOR THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, SOUTH 86 DEGREES 46 MINUTES 16 SECONDS EAST, 625.44 FEET; THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF VANTAGE DRIVE THE FOLLOWING COURSES: SOUTH 02 DEGREES 39 MINUTES 17 SECONDS WEST, 254.70 FEET; THENCE SOUTH 02 DEGREES 48 MINUTES 06 SECONDS WEST, 401.08 FEET; THENCE LEAVING SAID RIGHT-OF-WAY, NORTH 87 DEGREES 04 MINUTES 02 SECONDS WEST, 623.85 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 28 SECONDS EAST, 659.02 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 9.430 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF VANTAGE DRIVE, STEARNS STREET AND FORD DRIVE AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION OF TRACT B

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND IN A PART OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 86 DEGREES 46 MINUTES 16 SECONDS EAST, 695.44 FEET; TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF SECTION 25 THE FOLLOWING COURSES: SOUTH 86 DEGREES 44 MINUTES 04 SECONDS EAST, 619.52 FEET; THENCE SOUTH 87 DEGREES 28 MINUTES 13 SECONDS EAST, 100.82 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 02 DEGREES 16 MINUTES 46 SECONDS WEST, 652.58 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 03 SECONDS WEST, 265.06 FEET; THENCE NORTH 87 DEGREES 03 MINUTES 51 SECONDS WEST, 460.57 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF VANTAGE DRIVE THE FOLLOWING COURSES: NORTH 02 DEGREES 48 MINUTES 16 SECONDS EAST, 401.31 FEET; THENCE NORTH 02 DEGREES 39 MINUTES 11 SECONDS EAST, 254.09 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 10.842 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF VANTAGE DRIVE AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION OF TRACT C

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 623.85 FEET; THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF VANTAGE DRIVE, SOUTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 197.95 FEET; THENCE NORTH 87 DEGREES 23 MINUTES 18 SECONDS WEST, 338.70 FEET; THENCE SOUTH 02 DEGREES 37 MINUTES 24 SECONDS WEST, 319.91 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 1290.45 FEET, AN ARC LENGTH OF 4.09 FEET, AND A CHORD OF NORTH 65 DEGREES 14 MINUTES 31 SECONDS WEST, 4.09 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1403.27 FEET, AN ARC LENGTH OF 321.11 FEET, AND A CHORD OF NORTH 58 DEGREES 35 MINUTES 46 SECONDS WEST, 320.41 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 52 SECONDS EAST, 365.50 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 4.487 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF VANTAGE DRIVE AND JOYCE BOULEVARD AND ANY EASEMENTS OF RECORD.

LESS AND EXCEPT THE FOLLOWING: A PORTION OF TRACT "C" AS DESCRIBED ABOVE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET, THENCE SOUTH 02 DEGREES 36 MINUTES 52 SECONDS WEST, 201.44 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 23 MINUTES 18 SECONDS EAST, 284.35 FEET; THENCE SOUTH 02 DEGREES 37 MINUTES 24 SECONDS WEST, 319.91 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 1290.45 FEET, AN ARC LENGTH OF 4.09 FEET, AND A CHORD OF NORTH 65 DEGREES 14 MINUTES 31 SECONDS WEST, 4.09 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1403.27 FEET, AN ARC LENGTH OF 321.11 FEET, AND A CHORD OF NORTH 58 DEGREES 35 MINUTES 46 SECONDS WEST, 320.41 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 52 SECONDS EAST, 164.05 FEET TO THE POINT OF BEGINNING CONTAINING 1.63 ACRES.

SURVEY DESCRIPTION OF TRACT D

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND IN A PART OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY

DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET; THENCE SOUTH 87 DEGREES 04 MINUTES 08 SECONDS EAST, 693.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 03 MINUTES 51 SECONDS EAST, 460.57 FEET; THENCE SOUTH 51 DEGREES 17 MINUTES 37 SECONDS WEST, 615.05 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF VANTAGE DRIVE, NORTH 02 DEGREES 48 MINUTES 16 SECONDS EAST, 408.69 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 2.161 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF VANTAGE DRIVE AND ANY EASEMENTS OF RECORD.

DRAFT



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 3, 2005

RZN 05-1833: (BELLAFONT, 174): Submitted by H2 ENGINEERING, INC. for property located at N OF JOYCE BLVD., W OF VENTURE RD AND S OF BELLEFONTE GARDENS. The property is zoned C-2, Thoroughfare Commercial, and R-O, Residential Office, and contains approximately 25.29 acres. The request is to rezone the subject property to C-3, Central Commercial.

Property Owner: Barber Development

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the proposed rezoning from C-2 to C-3 with the acceptance of the Bill of Assurance offered by the applicant to address those criteria of the C-3 zoning district which would potentially create a negative impact on subject and surrounding properties.

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>December 12, 2005</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>January 03, 2005 (first reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains four parcels consisting of 25.29 acres. The property is owned by the Barber Group and is located north of Joyce Boulevard on either side of Vantage Drive, a recently constructed street. A majority of the property is zoned C-2, Thoroughfare Commercial, though a small portion to the southeast of the property and within a dedicated drainage easement is zoned R-O, Residential Office. Adjacent uses include multi-family development to the north and east, as well as commercial development to the east and south, including the U.S. Post Office and Lindsey Office building, currently under construction.

Request: The applicant is requesting the property be rezoned from C-2, Thoroughfare Commercial, to C-3, Central Commercial. The applicant desires the change in zoning to alleviate height restrictions from development on the property. The applicant has submitted a Bill of Assurance to address uses, density, height, greenspace, driveways and parking regulations of the C-3 zoning district to ensure development which will not be harmful to the public and surrounding properties.

Discussion: Although the applicant desires to modify the zoning district to relieve height restrictions on the property, a rezoning will also change the development regulations and other zoning requirements of the property. These differences are enumerated below with specific restrictions listed in the Bill of Assurance being bold and italicized.

161.17 District C-2, Thoroughfare Commercial

(A) **Purpose.** The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) **Uses.**

(1) **Permitted uses.**

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) **Conditional uses.**

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) **Density.** None.

(D) **Bulk and area regulations.** None.

161.18 District C-3, Central Commercial

(A) **Purpose.** The Central Commercial District is designed to accommodate the commercial and related uses commonly found in the central business district, or regional shopping centers which provide a wide range of retail and personal service uses.

(B) **Uses.**

(1) **Permitted uses.** *Retail, Restaurant, office, residential*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios, and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 34	Liquor stores

(2) **Conditional uses.**

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 17	Trades and services
Unit 28	Center for collecting recyclable materials
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) **Density.** *No more than 18 units per acre.*

(D) **Bulk and area regulations.** None

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

Development Requirements:

(H) Minimum Canopy Preservation: 15%

(I) *Site coverage.* A maximum of 85% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. Zoning districts C-3, C-4, and the Design Overlay District are exempt from this requirement.

(J) *Driveways.* Shared drives and cross access between properties shall be encouraged to developed and undeveloped properties, except in C-3 and C-4 zones.

(E) *Setback regulations.*

	Central Business District	Shopping Center
Front	5 ft.	25 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.	50 ft.
Side	None	None
Side, when contiguous to a residential district	10 ft.	25 ft.
Rear, without easement or alley	15 ft.	25 ft.
Rear, from center line of a public alley	10 ft.	10 ft.

(F) *Height regulations.* Any non-residential building on the Land shall not exceed twelve stories, and any residential building on the land shall not exceed sixteen stories. No structures on the property shall exceed sixteen stories in height.

(G) *Building area.* NO RESTRICTION

(H) Minimum Canopy Preservation: 15%

(I) *Site coverage.* Twenty percent (20%) of the Land must be maintained as greenspace.

(J) *Driveways.* The Petitioner encourages all properties adjacent to the Land to allow cross-access and shared access to public streets.

Parking Standards

(K) *Change of use – waiver.* In C-3 and C-4 zoning districts, parking requirements are waived for any existing structure with a change of use. New construction, razed buildings or enlarged buildings shall conform to the parking requirements of the City of Fayetteville. For enlarged buildings, additional parking spaces will be calculated by the amount of square footage that is added.

All uses, current and future, on the Land shall have adequate parking as per the then-current City Code of the City of Fayetteville, Arkansas. Any otherwise relevant waiver of parking requirements due to the land being zoned C-3 shall not apply to future uses that may begin on the Land.

(L) *C-3 and C-4 Zoning Districts accessory outdoor use areas* - Accessory outdoor patios, balconies, decks, and other similar outdoor use areas for restaurants and bars shall be exempt from meeting off-street parking requirements in the C-3 and C-4 zoning districts.

Public Comment: Staff has received no written public comment concerning the requested rezoning.

Recommendation: Staff recommends approval of the rezoning request to modify the zoning designation of the subject property from C-2 to C-3 with acceptance of the Bill of Assurance offered by the applicant.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Lindsey Office Building	C-2
South	Vacant tracts, US Post Office, Offices	C-2 & R-O
East	Multi-family Apartments	RMF-24
West	Multi-family Apartments	RMF-24

INFRASTRUCTURE:

Streets: The site has access to Vantage and Stearns Road. Improvements that may be required shall be evaluated by staff as development occurs.

Table 2
Nearby Master Street Plan Streets

Direction from Site	Street Name	Master Street Plan Classification
South	Joyce Blvd	Principal Arterial
East	Old Missouri Road	Collector Street
North	Zion Road	Collector Street
West	College Ave/Hwy 71B	Principal Arterial
Through Site	Vantage Dr.	Collector Street

Water: Public water is near to the site. Substantial improvements to the water system may be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sewer: Sanitary sewer is near to the site. Substantial improvements to the sewer system may be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

Drainage: Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

Fire: The subject property is located approximately 1.6 miles from Fire Station No. 4 with an anticipated response time of 4.5 minutes. The Fire Department does not estimate future number of emergency calls on commercial property, as they typically do not adversely affect its call volume.

Police: Properties in this area of the city already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates the site as Regional Commercial where the property is currently zoned C-2 and Office where a portion of the property is zoned R-O.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed C-3 zoning is very similar to the existing C-2 zoning district in uses allowed and bulk and area regulations. However, there are several distinct differences which are evident based on the purpose of each zoning district. The purpose of the C-2 zoning district is to encourage the functional grouping of commercial enterprises catering primarily to highway travelers. The C-3 zoning district is designed to accommodate the commercial and related uses commonly found in the central business district, or regional shopping centers which provide a wide range of retail and personal service uses. The subject property is located near several major highways, though it is also adjacent to a regional shopping area, mainly the Northwest Arkansas Mall and surrounding developments. The properties on which these

established regional shopping centers are established are zoned C-2. Within the City of Fayetteville, the C-3 zoning district is currently found only within a quarter-mile of Dickson Street or the Square. However, as clearly apparent by the description of the C-3 zoning district, it is anticipated that areas outside the Central Business District qualify to be rezoned C-3. Primary differences between the two zoning districts are as follows:

- a. **Uses:** Multi-family, with no density restrictions, are allowed within the C-3 zoning district; more intense commercial uses such as warehousing are not permitted and trades and services are only permitted by conditional use. Additionally, sexually oriented businesses are not permitted within the C-3 zoning district.
- b. **Setbacks:** C-3 zoning districts have two setback regulations, one for a Central Business District and one for Shopping Areas. It is the less restricted setbacks of the Central Business District which are applied to those properties in the downtown area. The setback restrictions for those C-3 properties in "Shopping Areas" are most like those setbacks in the C-2 zoning district and would be most appropriate in this regional shopping area.
- c. **Height:** The C-3 zoning district has no height restrictions.
- d. **Building Area:** The C-3 zoning district is neither restricted in the amount of property is occupied by structures nor the amount of impervious surface on the property.
- e. **Cross-access:** Though cross-access is not encouraged in C-3 zoning districts, staff finds that to not provide alternate means of interior access would potentially create a dangerous traffic situation.
- f. **Parking:** Parking requirements in the C-3 zoning district are much more lenient than within the C-2 zoning district.

Though there are several differences between the zoning districts, the change of use to allow multi-family dwellings will not adversely affect surrounding properties, which are currently zoned for either commercial or residential use. The City Council recently approved a Residential Planned Zoning District north of the subject property to allow a mixed-use development in a "downtown" development pattern (Vantage Center R-PZD). Unlike approval of a Planned Zoning District, a rezoning of this property to C-3 does not ensure any development standards other than what is required by ordinance. However, the applicant has submitted a Bill of Assurance to place additional restrictions on the density, height, greenspace, driveways and parking areas than required by ordinance.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: To allow the development of residential use on the property in conjunction with office and commercial uses, it was necessary for the applicant to request a rezoning of the property. This could have been done by submitting a conceptual Master Development Plan Planned Zoning District, a detailed Master Development Plan Planned Zoning District, or a rezoning request to a zoning district which would permit the applicant's desired development. In this case, the applicant has found the C-2 zoning district too restrictive in height requirements. Thus, the rezoning is not the result of anything other than the applicant's proposed use and desired development.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The police department has determined the proposed density will not substantially alter the population density to create an undesirable affect on services.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Rezoning the property to C-3 would allow for the development of multi-family dwellings with an unlimited density, whereas the C-2 zoning district limits multi-family density to 24 units per acre. Therefore, rezoning the property to C-3 with no density restrictions will increase the population density to an unknown and unrestricted number.

The findings of the Engineering Division, Fire Department and Police Department are listed within the body of this staff report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

December 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Rezoning RZN 04-1833 (Bellafont, 174) submitted by H2 Engineering, Inc. for Property located N of Joyce Blvd., W of Venture Rd and S. of Bellefonte Gardens would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,


Captain William Brown
Fayetteville Police Department

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, CB VENTURES, LLC (hereinafter -"Petitioner"), hereby voluntarily offer this Bill of Assurance and enter into this binding agreement and contract with the City of Fayetteville, Arkansas.

Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council and Petitioner's property is rezoned to C-3 classification:

1. The use of Petitioner's property described in Exhibit "A" attached hereto (the "Land") shall be limited to the following uses: retail, restaurant, office, and residential.
2. The Land C-3 zoning classification shall be subject to the following modifications and restrictions:
 - a. **Density:** There shall be allowed no more than 18 units per acre.
 - b. **Height Restrictions:** Any non-residential building on the Land shall not exceed twelve stories, and any residential building on the Land shall not exceed sixteen stories. No structures on the property shall exceed sixteen stories in height.
 - c. **Greenspace:** Twenty percent (20%) of the Land must be maintained as greenspace, as the term "greenspace" is defined in the City Code of the City of Fayetteville, Arkansas.
 - d. **Driveways and Parking:** Petitioner shall encourage all properties adjacent to the Land to allow cross-access and shared access to public streets. All uses, current and future, on the

Land shall have adequate parking as per the then-current City Code of the City of Fayetteville, Arkansas. Any otherwise relevant waiver of parking requirements due to the land being zoned C-3 shall not apply to future uses that may begin on the Land.

3. Petitioners specifically agree that all such restrictions and terms shall run with the Land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners' rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, CB VENTURES, LLC, as the owners, developers or buyers (Petitioners) **voluntarily offer** all such assurances and sign our names below.

12-7-05
Date

2921 Old Missouri Rd.
Address
S'Dale, AR 72764

CB VENTURES, LLC

BRANDON BARBER
Printed Name

By:


Signature

Date

Address

Printed Name

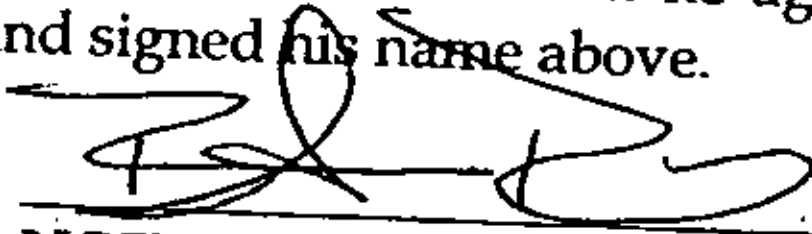
By:

Signature

NOTARY OATH

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this the 7th day of DECEMBER, 2005
me, BRANDON BARBER, ~~2004~~, appeared before
_____ and
as the members of CB VENTURES,
LLC, after being placed upon his/her oath, swore or affirmed that he agreed
with the terms of the above Bill of Assurance and signed his name above.


NOTARY PUBLIC

My Commission Expires:
7-15-2014

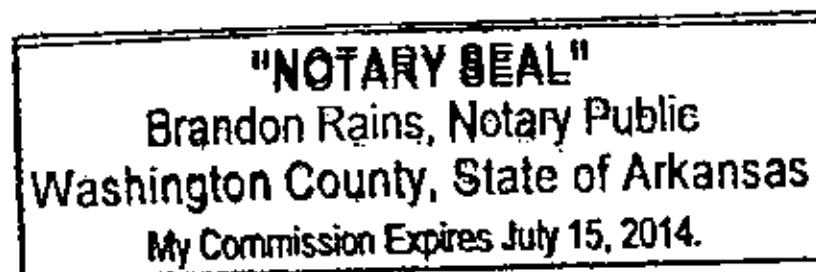


EXHIBIT "A"

SURVEY DESCRIPTION OF TRACT A

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS; MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25 FOR THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, SOUTH 86 DEGREES 46 MINUTES 16 SECONDS EAST, 625.44 FEET; THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF VANTAGE DRIVE THE FOLLOWING COURSES: SOUTH 02 DEGREES 39 MINUTES 17 SECONDS WEST, 254.70 FEET; THENCE SOUTH 02 DEGREES 48 MINUTES 06 SECONDS WEST, 401.08 FEET; THENCE LEAVING SAID RIGHT-OF-WAY, NORTH 87 DEGREES 04 MINUTES 02 SECONDS WEST, 623.85 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 28 SECONDS EAST, 659.02 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 9.430 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF VANTAGE DRIVE, STEARNS STREET AND FORD DRIVE AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION OF TRACT B

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND IN A PART OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 86 DEGREES 46 MINUTES 16 SECONDS EAST, 695.44 FEET; TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF SECTION 25 THE FOLLOWING COURSES: SOUTH 86 DEGREES 44 MINUTES 04 SECONDS EAST, 619.52 FEET; THENCE SOUTH 87 DEGREES 28 MINUTES 13 SECONDS EAST, 100.82 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 02 DEGREES 16 MINUTES 46 SECONDS WEST, 652.58 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 03 SECONDS WEST, 265.06 FEET; THENCE NORTH 87 DEGREES 03 MINUTES 51 SECONDS WEST, 460.57 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF VANTAGE DRIVE THE FOLLOWING COURSES: NORTH 02 DEGREES 48 MINUTES 16 SECONDS EAST, 401.31 FEET; THENCE NORTH 02 DEGREES 39 MINUTES 11 SECONDS EAST, 254.09 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 10.842 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF VANTAGE DRIVE AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION OF TRACT C

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 623.85 FEET; THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF VANTAGE DRIVE, SOUTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 197.95 FEET; THENCE NORTH 87 DEGREES 23 MINUTES 18 SECONDS WEST, 338.70 FEET; THENCE SOUTH 02 DEGREES 37 MINUTES 24 SECONDS WEST, 319.91 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 1290.45 FEET, AN ARC LENGTH OF 4.09 FEET, AND A CHORD OF NORTH 65 DEGREES 14 MINUTES 31 SECONDS WEST, 4.09 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1403.27

FEET, AN ARC LENGTH OF 321.11 FEET, AND A CHORD OF NORTH 58 DEGREES 35 MINUTES 46 SECONDS WEST, 320.41 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 52 SECONDS EAST, 365.50 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 4.487 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF VANTAGE DRIVE AND JOYCE BOULEVARD AND ANY EASEMENTS OF RECORD.

LESS AND EXCEPT THE FOLLOWING: A PORTION OF TRACT "C" AS DESCRIBED ABOVE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET, THENCE SOUTH 02 DEGREES 36 MINUTES 52 SECONDS WEST, 201.44 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 23 MINUTES 18 SECONDS EAST, 284.35 FEET; THENCE SOUTH 02 DEGREES 37 MINUTES 24 SECONDS WEST, 319.91 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 1290.45 FEET, AN ARC LENGTH OF 4.09 FEET, AND A CHORD OF NORTH 65 DEGREES 14 MINUTES 31 SECONDS WEST, 4.09 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 1403.27 FEET, AN ARC LENGTH OF 321.11 FEET, AND A CHORD OF NORTH 58 DEGREES 35 MINUTES 46 SECONDS WEST, 320.41 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 52 SECONDS EAST, 164.05 FEET TO THE POINT OF BEGINNING CONTAINING 1.63 ACRES.

SURVEY DESCRIPTION OF TRACT D

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND IN A PART OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET; THENCE SOUTH 87 DEGREES 04 MINUTES 08 SECONDS EAST, 693.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 03 MINUTES 51 SECONDS EAST, 460.57 FEET; THENCE SOUTH 51 DEGREES 17 MINUTES 37 SECONDS WEST, 615.05 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF VANTAGE DRIVE, NORTH 02 DEGREES 48 MINUTES 16 SECONDS EAST, 408.69 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 2.161 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF VANTAGE DRIVE AND ANY EASEMENTS OF RECORD.



November 2, 2005

City of Fayetteville
Attn: Planning Commission
113 West Mountain St.
Fayetteville, AR 72701

RE: BELLAFONT REZONING REQUEST

Dear Commissioners:

On behalf of our client, The Barber Group, we are submitting this rezoning request for approximately 26.92 acres located on the north side of Joyce Street east of the new Lindsey Properties Headquarters. The property is currently owned by CB Ventures, LLC. Brandon Barber is the President of the LLC. There are no pending property sales related to this property.

The entire property is currently zoned C-2. We are requesting a zoning of C-3. The change to C-3 zoning does not create a significant change in the use of the property with the exception of not allowing some of the adult oriented, and service oriented uses. The C-3 zoning designation is actually a little more restrictive than our current C-2 zoning. The C-3 zoning has traditionally been associated with our downtown area, but is also designed to accommodate regional shopping centers which provide a wide range of retail and personal service uses.

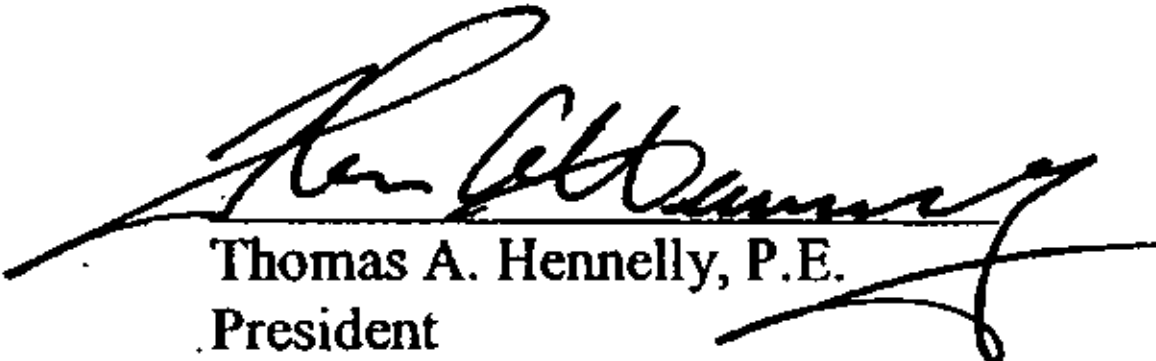
We are requesting the change in zoning to allow for less restrictive building heights. Under the current zoning, a maximum building height is 20 feet, with a provision for up to 75 feet, if the building setback is increased by 1 foot horizontally for every vertical foot over 20 feet. The planned development on this property is a mixed use, office, retail, restaurant, and residential development. The office component will be housed in buildings 8 to 10 stories. These buildings are located in the middle of the site and are not adjacent to any existing residential developments. The residential components of the development consist of two condominium towers which will not exceed 14 stories. The ability to add a vertical aspect to this project allows the developer to leave larger open spaces in the development and make the project economically feasible.

The property, once developed, will be an upscale mixed use development, with office, retail, restaurant, and residential tenants. This development will generate significant traffic and measures are being incorporated to improve existing roads, through widening

and signalization to accommodate this traffic. The residential condominium towers associated with the proposed development are not expected to house families with school age children. Not only will this not burden the already congested school system, rather the tax dollars generated will be a net-net gain for the City School District.

Water and sewer are available around the entire property. A ten inch sewer main is available along the southeast part of the property and eight inch lines are available on the north side. Eight inch water lines are available along the southwest and north sides of the property.

Sincerely,



Thomas A. Hennelly, P.E.
President
H2 Engineering



November 2, 2005

City of Fayetteville
Attn: Planning Staff
113 West Mountain St.
Fayetteville, AR 72701

RE: BELLAFONT REZONING REQUEST

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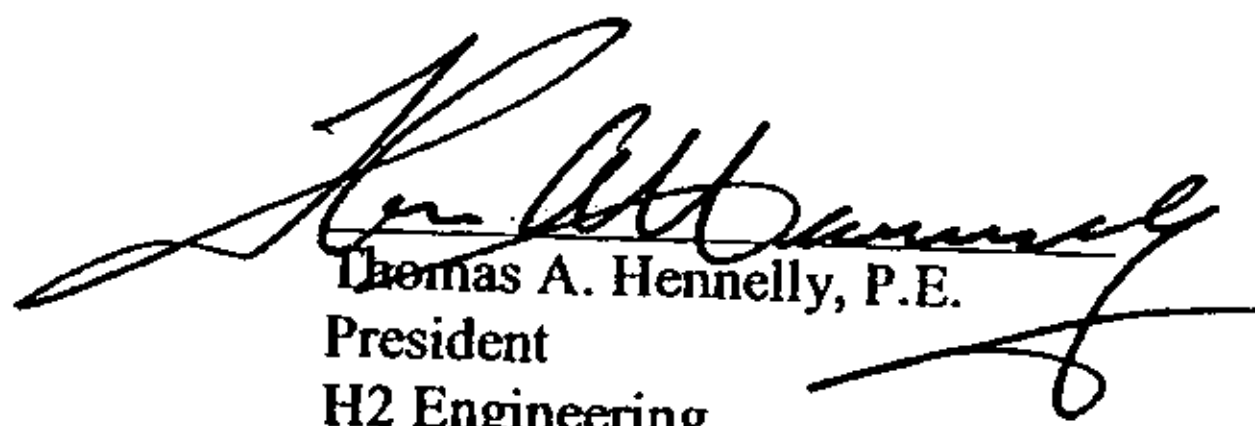
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The property, once developed, will be an upscale mixed use development, with office, retail, restaurant, and residential tenants. This development will generate significant traffic and measures are being incorporated to improve existing roads, through widening and signalization to accommodate this traffic. The appearance of the development will incorporate pedestrian friendly shopping areas, with water features and extensive landscaping. Signage will primarily be located at the entrance along Joyce Street and at the intersection of Joyce Street and Vantage Avenue.

Water and sewer are available around the entire property. A ten inch sewer main is available along the southeast part of the property and eight inch lines are available on the

north side. Eight inch water lines are available along the southwest and north sides of the property.

Sincerely,



Thomas A. Hennelly, P.E.
President
H2 Engineering

05-045 Joyce Street, Barber Group

SURVEY DESCRIPTION OF TRACT A

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25 FOR THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, SOUTH 86 DEGREES 46 MINUTES 16 SECONDS EAST, 625.44 FEET; THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF VANTAGE DRIVE THE FOLLOWING COURSES: SOUTH 02 DEGREES 39 MINUTES 17 SECONDS WEST, 254.70 FEET; THENCE SOUTH 02 DEGREES 48 MINUTES 06 SECONDS WEST, 401.08 FEET; THENCE LEAVING SAID RIGHT-OF-WAY, NORTH 87 DEGREES 04 MINUTES 02 SECONDS WEST, 623.85 FEET; THENCE ALONG THE WEST LINE OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, NORTH 02 DEGREES 36 MINUTES 28 SECONDS EAST, 659.02 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 9.430 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF VANTAGE DRIVE, STEARNS STREET AND FORD DRIVE AND ANY EASEMENTS OF RECORD.

1st Submittal as:

RZ100S - 1833

Parcel closes

11/20/2005

TJ

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

05-045 Joyce Street, Barber Group

SURVEY DESCRIPTION OF TRACT B

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND IN A PART OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 86 DEGREES 46 MINUTES 16 SECONDS EAST, 695.44 FEET; TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF SECTION 25 THE FOLLOWING COURSES: SOUTH 86 DEGREES 44 MINUTES 04 SECONDS EAST, 619.52 FEET; THENCE SOUTH 87 DEGREES 28 MINUTES 13 SECONDS EAST, 100.82 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 02 DEGREES 16 MINUTES 46 SECONDS WEST, 652.58 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 03 SECONDS WEST, 265.06 FEET; THENCE NORTH 87 DEGREES 03 MINUTES 51 SECONDS WEST, 460.57 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF VANTAGE DRIVE THE FOLLOWING COURSES: NORTH 02 DEGREES 48 MINUTES 16 SECONDS EAST, 401.31 FEET; THENCE NORTH 02 DEGREES 39 MINUTES 11 SECONDS EAST, 254.09 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 10.842 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF VANTAGE DRIVE AND ANY EASEMENTS OF RECORD.

1st Submittal as:

RZN06-1833

Parcel Closes

11/30/2005

TS

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Applicant's Signature

05-045 Joyce Street, Barber Group

SURVEY DESCRIPTION OF TRACT C

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EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

1st Submitted as:

RZN 05-1833

Parcel Closes

11/30/2005

TS

05-045 Joyce Street, Barber Group

SURVEY DESCRIPTION OF TRACT D

LOCATED IN A PART OF THE NW ¼ OF THE NW ¼ AND IN A PART OF THE NE ¼ OF THE NW ¼ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET; THENCE SOUTH 87 DEGREES 04 MINUTES 08 SECONDS EAST, 693.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 03 MINUTES 51 SECONDS EAST, 460.57 FEET; THENCE SOUTH 51 DEGREES 17 MINUTES 37 SECONDS WEST, 615.05 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF VANTAGE DRIVE, NORTH 02 DEGREES 48 MINUTES 16 SECONDS EAST, 408.69 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 2.161 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF VANTAGE DRIVE AND ANY EASEMENTS OF RECORD.

1st Submittal as:

RZN 05-1833

Parcel Closes

11/30/2005

TJ

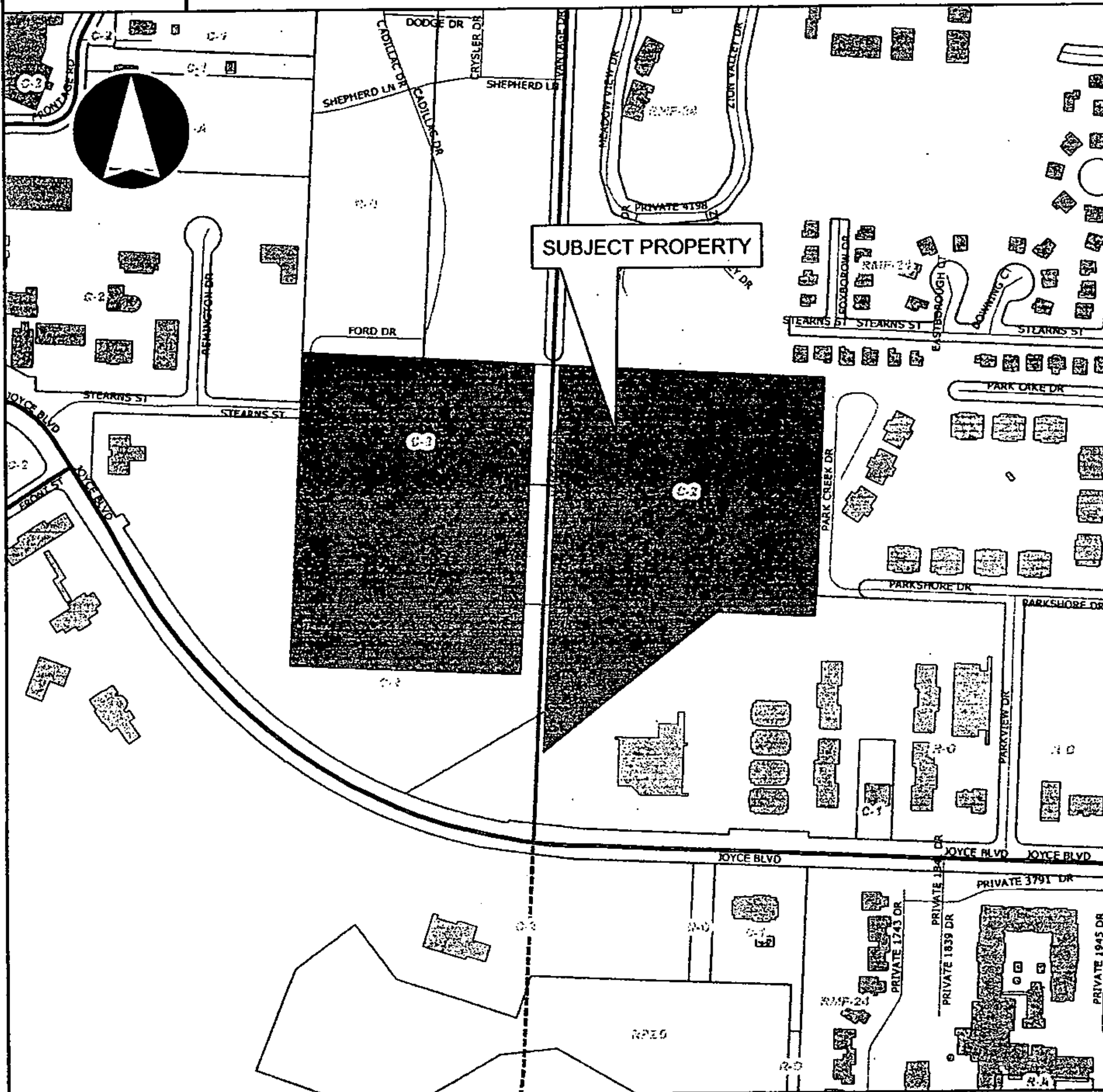
EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

RZN05-1833

Close Up View

BELLAFONT



Legend

- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RZN05-1833
- vector.GDB.Footprint_2004

0 150 300 600 900 1,200 Feet

Miles

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

3-Jan-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1834 (Vantage Square, 175): Submitted by Crafton, Tull & Assoc. for property located at Lots 6C and 7A in Vantage Square. The property is zoned R-O, Residential Office and R-PZD, Residential Planned Zoning District and contains approximately 13.47 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial and C-2, Thoroughfare Commercial.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director
12.16.05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney
12-16-05
Date

Original Contract Number: n/a

[Signature]
Finance and Internal Service Director
12-16-05
Date

Received in City Clerk's Office
ENTERED 12/16/05

[Signature]
Mayor
12/16/05
Date

Received in Mayor's Office
ENTERED 12/16/05

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 15, 2005

Subject: Rezoning for Vantage Square (RZN 05-1834)

RECOMMENDATION

The Planning staff recommends approval of the subject rezoning request to rezone approximately 13.47 acres of property from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office, to C-1, Neighborhood Commercial, and C-2, Thoroughfare Commercial.

BACKGROUND

The subject property contains several tracts of property containing approximately 13.47 acres. The majority of the site is zoned R-PZD 04-1074 with a small portion of 0.44 acres zoned R-O, Residential Office. The site is currently vacant, with the newly constructed Regions Bank to the northwest.

On June 14, 2004, the Planning Commission forwarded R-PZD 04-1074, *Cambridge Crossing*, to the City Council with a recommendation of approval. On July 20, 2004, the City Council approved the proposed rezoning and preliminary plat to create a town-house style development consisting of 57 attached residential dwelling units and one (1) lot reserved for community greenspace. A future phase was identified on the western portion of the subject tract, to be reviewed as a Planned Zoning District at the time of development. The applicant encountered unexpected delays and situations which did not make it feasible to proceed with the construction of the approved plans.

DISCUSSION

This item was heard at the regular Planning Commission on December 12, 2005. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council.

The property was rezoned R-PZD with unique zoning criteria and a preliminary plat approved. It is no longer the desire of the applicant to proceed with construction of the approved development. As the approval of the R-PZD is subject to expiration and revocation if not constructed within the time frame set forth in Chapter 166 of the Unified Development Code, eventually, the R-PZD zoning will become void. To develop the

City Council Meeting of January 03, 2006
Agenda Item Number

property for anything other than the approved R-PZD, the applicant is required to submit a rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1834 FOR APPROXIMATELY
13.47 ACRES LOCATED AT LOTS 6C AND 7A IN VANTAGE
SQUARE FROM R-PZD 04-1075 (CAMBRIDGE CROSSING) AND R-
O, RESIDENTIAL OFFICE TO C-1, NEIGHBORHOOD
COMMERCIAL, AND C-2, THOROUGHFARE COMMERCIAL.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office
to C-1, Neighborhood Commercial and C-2, Thoroughfare Commercial, as shown on
Exhibit "A" Attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 05-1834

REZONING DESCRIPTION: (PROPOSED C-1 North)

A PART OF LOT 7A, VANTAGE SQUARE UNIT 2, AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2004-17701 BEING PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL NORTHWEST CORNER OF LOT 7 OF VANTAGE SQUARE ADDITION, PER PLAT BOOK 10 AT PAGE 79; THENCE N88°57'05"E 338.34 FEET TO THE POINT OF BEGINNING, BEING A POINT ON THE SOUTH RIGHT-OF-WAY FOR JOYCE BOULEVARD; THENCE N88°57'05"E ALONG SAID SOUTH RIGHT-OF-WAY 59.41 FEET TO THE NORTHEAST CORNER OF SAID LOT 7A OF VANTAGE SQUARE, UNIT 2, AT PLAT RECORD 2004-17701; THENCE S00°51'30"E 325.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7A; THENCE S88°57'05"W ALONG THE SOUTH BOUNDARY LINE OF SAID LOT 7A 59.41 FEET; THENCE LEAVING SAID SOUTH BOUNDARY LINE N00°51'30"W 325.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.44 ACRES, MORE OR LESS.

REZONING DESCRIPTION: (PROPOSED C-1 South)

A PART OF LOT 6C, VANTAGE SQUARE UNIT 2, AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2004-17701 BEING PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL NORTHWEST CORNER OF LOT 7 OF VANTAGE SQUARE ADDITION, PER PLAT BOOK 10 AT PAGE 79; THENCE S15°13'05"W 338.58 FEET; THENCE N88°57'05"E 432.10 FEET TO THE POINT OF BEGINNING; THENCE N88°57'05"E 279.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 6C VANTAGE SQUARE, UNIT 2, AT PLAT RECORD 2004-17701; THENCE S00°50'56"E 848.88 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6C, BEING A POINT ON THE NORTHERN BOUNDARY OF PROPERTY DEDICATED TO THE CITY OF FAYETTEVILLE AS INSTRUMENT NO. 9709229; THENCE ALONG SAID NORTHERN BOUNDARY THE FOLLOWING TWO COURSES: THENCE N34°36'10"W 402.01 FEET; THENCE N41°35'38"W 85.86 FEET;

THENCE LEAVING SAID NORTHERN BOUNDARY N00°51'21"W 448.61 FEET TO THE POINT OF BEGINNING, CONTAINING 4.11 ACRES, MORE OR LESS.

REZONING DESCRIPTION: (PROPOSED C-2)

A PART OF LOT 6C, VANTAGE SQUARE UNIT 2, AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2004-17701 BEING PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL NORTHWEST CORNER OF LOT 7 OF VANTAGE SQUARE ADDITION, PER PLAT BOOK 10 AT PAGE 79; THENCE S15°13'05"W 338.58 FEET TO THE POINT OF BEGINNING; THENCE N88°57'05"E 432.10 FEET; THENCE S00°51'21"E 448.61 FEET TO THE SOUTH LINE OF SAID LOT 6C, BEING A POINT ON THE NORTHERN BOUNDARY OF PROPERTY DEDICATED TO THE CITY OF FAYETTEVILLE AS INSTRUMENT NO. 9709229; THENCE ALONG SAID NORTHERN BOUNDARY THE FOLLOWING FIVE COURSES:
THENCE N41°35'38"W 177.14 FEET;
THENCE N63°42'20"W 267.00 FEET;
THENCE S80°56'01"W 155.00 FEET;
THENCE S56°19'22"W 335.00 FEET;
THENCE N73°57'20"W 388.96 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6C; THENCE LEAVING SAID NORTHERN BOUNDARY N18°23'31"E 292.26 FEET; THENCE N50°01'17"E 200.91 FEET; THENCE S39°59'12"E 185.39 FEET; THENCE S74°48'38"E 338.61 FEET; THENCE N15°13'05"E 121.18 FEET TO THE POINT OF BEGINNING, CONTAINING 7.41 ACRES, MORE OR LESS.



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 3, 2005

RZN 05-1834: (VANTAGE SQUARE, 175): Submitted by CRAFTON, TULL & ASSOC. for property located at LOTS 6C AND 7A IN VANTAGE SQUARE. The property is zoned R-O, RESIDENTIAL OFFICE AND R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT, and contains approximately 13.47 acres. The request is to rezone the subject properties to C-1, Neighborhood Commercial, and C-2, Thoroughfare Commercial.

Property Owner: Chambers Bank

Czervik Investments

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the proposed rezoning from R-PZD 04-1075 (Cambridge Crossing) and R-O, Residential Office, to C-1, Neighborhood Commercial, and C-2, Thoroughfare Commercial based on the findings herein.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
	☒ Approved	☐ Denied
Date:	<u>December 12, 2005</u>	
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☒ Approved	☐ Denied
Date:	<u>January 03, 2005 (first reading if recommended)</u>	

BACKGROUND:

Property description: The subject property contains several tracts of property containing approximately 13.47 acres. The majority of the site is zoned R-PZD 04-1074 with a small portion of 0.44 acres zoned R-O, Residential Office. The site is currently vacant, with the newly constructed Regions Bank to the northwest.

Background: On June 14, 2004, the Planning Commission forwarded R-PZD 04-1074, *Cambridge Crossing*, to the City Council with a recommendation of approval. On July 20, 2004, the City Council approved the proposed rezoning and preliminary plat to create a town-house

style development consisting of 57 attached residential dwelling units and one (1) lot reserved for community greenspace. A future phase was identified on the western portion of the subject tract, to be reviewed as a Planned Zoning District at the time of development. The applicant encountered unexpected delays and situations which did not make it feasible to proceed with the construction of the approved plans.

Request: The applicant is requesting the property be rezoned from R-PZD to C-2 and C-1. The C-1 zoning district will be adjacent to the RMF-24 zoning district and developed as Butterfield Village. Prior to the City Council approval of the R-PZD, the property adjacent to Butterfield Village was zoned R-O and the property proposed to be rezoned C-2 was formerly zoned C-2.

Public Comment: Staff has received no written public comment concerning the requested rezoning.

Recommendation: Staff recommends approval of the rezoning request based on the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Vacant lot, Community Bank, Regions Bank	C-2, Thoroughfare Commercial C-1, Neighborhood Commercial
South	Mud Creek, trail system	C-2, Thoroughfare Commercial
East	Butterfield Trail Village	RMF-24, Res Multifamily, 24 DU/Acre
West	Regions Bank, vacant	C-2, Thoroughfare Commercial

INFRASTRUCTURE:

Streets: The site has access to Vantage Road. This development may be assessed for traffic signal improvements and street improvements to Joyce Boulevard. Improvements that may be required shall be evaluated by staff as development occurs.

Table 2
Nearby Master Street Plan Streets

Direction from Site	Street Name	Master Street Plan Classification
East	Old Missouri Road	Collector Street
North	Joyce Blvd*	Principal Arterial
West	College Ave/Hwy 71B	Principal Arterial
Through Site	Vantage Dr.*	Collector Street

*Directly adjacent to the site.

Water: Public water has been approved to extend to the site. Substantial improvements to the water system may be required which includes other off-site improvements. An evaluation will be made by staff at the time large scale development.

Sewer: Sanitary sewer is adjacent to the site. Improvements to the sewer system may be required which includes off-site improvements. An evaluation will be made by staff at the time large scale development. A study of the downstream system shall be conducted by the developer.

Drainage: Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

Fire: Fire Station #4, located on N. Plainview approximately 1.5 miles from the property, will serve this site once it is developed. Fire response time to the site is approximately 4 minutes. The Fire Department does not estimate future number of emergency calls on commercial property, as these type of developments typically do not adversely affect its call volume.

Police: Properties in this area of the city already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates the site as Regional Commercial where the applicant proposes C-2 zoning district and Residential where the applicant proposes C-1 zoning district.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed zoning is similar to the previous zoning of the subject property, prior to the approval of R-PZD 04-1075. The proposed rezoning will, however, allow the establishment of commercial uses adjacent to Butterfield Trail Village, zoned RMF-24, where previously it was zoned R-O and then R-PZD. However, staff finds that rezoning the property to allow development of commercial uses in this area is compatible with the surrounding uses and zoning districts. Staff also finds that a C-1 zoning district adjacent to the development and RMF-24 property to the east is compatible and may provide commercial areas that are a convenient way to meet the shopping needs of adjacent residents. Buffer areas will be required

to be established between any residential and non-residential use and residential zoning districts.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The majority of the property was recently (2004) rezoned R-PZD with unique zoning criteria and a preliminary plat approved. It is no longer the desire of the applicant to proceed with construction of the approved development. As the approval of the R-PZD is subject to expiration and revocation if not constructed within the time frame set forth in Chapter 166 of the Unified Development Code, eventually the R-PZD zoning will become void. To develop the property for anything other than the approved R-PZD, the applicant is required to submit a rezoning request.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The police department has determined the proposed zoning will not substantially alter the population density to create an undesirable affect on services.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Rezoning the property from R-PZD, in which 57 dwelling units were allowed, to C-1 and C-2 in which only accessory residential uses are permitted by right, the residential development on the subject property will likely decrease.

The findings of the Engineering Division, Fire Department and Police Department are listed within the body of this staff report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 6
RZN 05-1834 Vantage Square
Page 13 of 22

POLICE DEPARTMENT

December 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

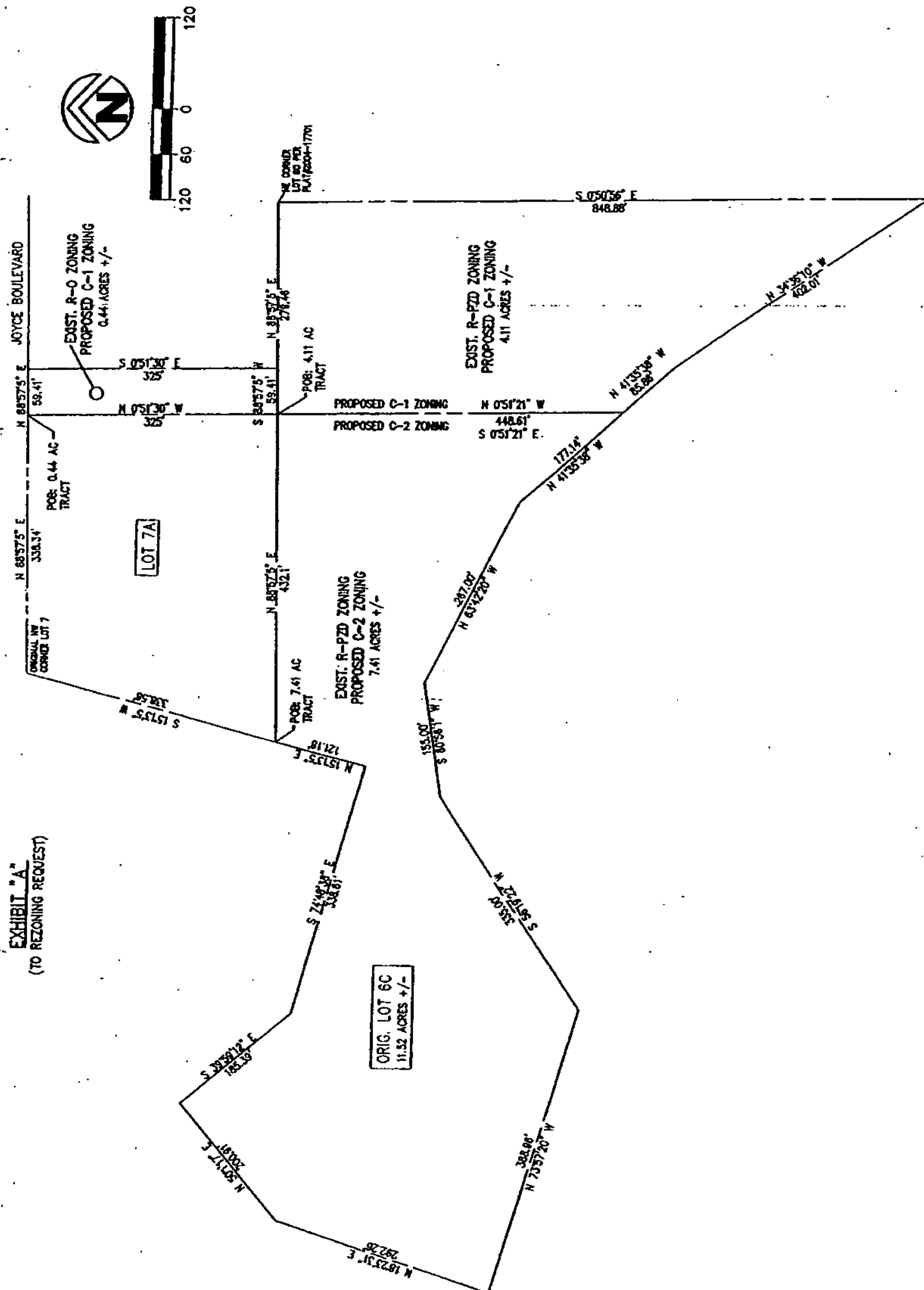
This document is in response to the request for a determination of whether the proposed Rezoning RZN 04-1834 (Vantage Square, 175) submitted by Crafton, Tull & Assoc. for Property located at lots 6c and 71 in Vantage Square would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department



Time: 3:21 pm
 Date: 11/2/2005
 Location: 051026-00/mw/dmg/Kennel-dmg (4533)

REZONING DESCRIPTION: (PROPOSED C-2)

A PART OF LOT 6C, VANTAGE SQUARE UNIT 2, AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2004-17701 BEING PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE ORIGINAL NORTHWEST CORNER OF LOT 7 OF VANTAGE SQUARE ADDITION, PER PLAT BOOK 10 AT PAGE 79;
THENCE S15°13'05"W 338.58 FEET TO THE POINT OF BEGINNING;
THENCE N88°57'05"E 432.10 FEET; THENCE S00°51'21"E 448.61 FEET TO THE SOUTH LINE OF SAID LOT 6C, BEING A POINT ON THE NORTHERN BOUNDARY OF PROPERTY DEDICATED TO THE CITY OF FAYETTEVILLE AS INSTRUMENT NO. 9709229;
THENCE ALONG SAID NORTHERN BOUNDARY THE FOLLOWING FIVE COURSES:
THENCE N41°35'38"W 177.14 FEET;
THENCE N63°42'20"W 267.00 FEET;
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1st Submittal as:
RZN 05-1834
Parcel closes
11/30/2005
TS

Prepared by: Crafton, Tull & Associates, Inc.
051096-00
11/02/05

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Daniel P. Ellis
Applicant's Signature

REZONING DESCRIPTION: (PROPOSED C-1 North)

A PART OF LOT 7A, VANTAGE SQUARE UNIT 2, AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2004-17701 BEING PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE S00°51'30"E 325.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7A;
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THENCE LEAVING SAID SOUTH BOUNDARY LINE N00°51'30"W 325.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.44 ACRES, MORE OR LESS.

1st Submittal as:
RZN 05-1834
Parcel Closes
11/30/2005
TS

Prepared by: Crafton, Tull & Associates, Inc.
051096-00
11/02/05

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

David P. Ellis
Applicant's Signature

REZONING DESCRIPTION: (PROPOSED C-1 South)

A PART OF LOT 6C, VANTAGE SQUARE UNIT 2, AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2004-17701 BEING PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE LEAVING SAID NORTHERN BOUNDARY N00°51'21"W 448.61 FEET TO THE POINT OF BEGINNING, CONTAINING 4.11 ACRES, MORE OR LESS.

1st Submittal as:

RZN 05-1834

Parcel Closes

11/30/2005

TJ

Prepared by: Crafton, Tull & Associates, Inc.
051096-00
11/02/05

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Daniel P. Ell
Applicant's Signature

6. *A written description of this request addressing the following items:*

a. *Current ownership information and any proposed or pending property sales.*

The current owners are as follows:

Parcel # 765-16850-000

Chambers Bank of North Arkansas
1685 E. Joyce Blvd
Fayetteville, AR 72703

Parcel # 765-16849-000

Czervik Investments LLC
2669 Sherwood Ln
Fayetteville, AR 72703

Pending property sales: 11.42 acres currently owned by Czerviks Investments LLC to SJP Holding LLC.

b. *Reason (need) for requesting the zoning change.*

Requesting zone change to accommodate commercial development on south side of Joyce Blvd. There is adjacent land zoned C-2 and C-1 that will part of commercial development and is under a pending sale at this time. To develop all of this land as a larger track we are requesting the current R-PZD be rezoned back to the original C-2 and C-1 zoning.

c. *Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.*

Butterfield Trail Villages (RMF-24) is due east of the land under review. There is a landscape buffer of trees and vegetation as well as a grade change of approximately 4 feet between the two pieces of property. We propose to rezone the land directly west of Butterfield Trail Village to C-1 and develop a zoning buffer between the RMF-24 and the proposed C-2. (see attached drawing). The property is currently surrounded by C-2 on the south, east, and north side of the property and if rezoned should go well with the zoning order in this area and the future land use calling for regional commercial.

By rezoning this land to C-1 and C-2 there should be no change in population to the area nor increase in existing or proposed traffic flow.

All signage for future development will meet City of Fayetteville sign ordinances.

d. *Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.*

A lot split has been filled with the city and will be approved once the water extension from Joyce Blvd south on Vantage drive has been approved by the State Health Dept. The city has approved this waterline and we are waiting on the state to approve it. Once this is done the 12" water extension will be constructed down the east side of Vantage. There is currently a 12" gravity sanitary sewer line running along the south side of the property that will serve the site.

7. The Planning Commission is required to make specific findings with regard to this application. The applicant shall provide written statements addressing the following:

- a. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.*
The request for C-2 and C-1 zoning is consistent with the surrounding zoning and be rezoned back to the original C-1 and C-2
- b. Whether the proposed zoning is justified and/or needed at the time of the request.*
The rezone is needed at this time to develop this site and the adjacent sites as a whole unit and eventually combine the land for one small commercial development.
- c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.*
A traffic light has been proposed and accepted for the intersection of Vantage Dr. and Joyce Blvd. When this site is developed it will have access to Vantage Dr and the proposed signal at the intersection of Joyce and Vantage. Any traffic that will be added by rezoning this property will be controlled by this light.
- d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.*
The rezoning will not increase population of this area with the rezoning. There will be a small increase in water and sanitary sewer during daytime hours and no large demand commercial type tenants are expected. The sanitary sewer line running east and west on the south side of the property is under design to be upsized.
- e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.*
The land would not best be used as R-PZD since all of the surrounding land is commercially zoned. By rezoning the property to C-1 and C-2, this property and the surrounding C-1 and C-2 can be used as one unit to develop a smaller commercial development that blend well with the surrounding area.

Notice:

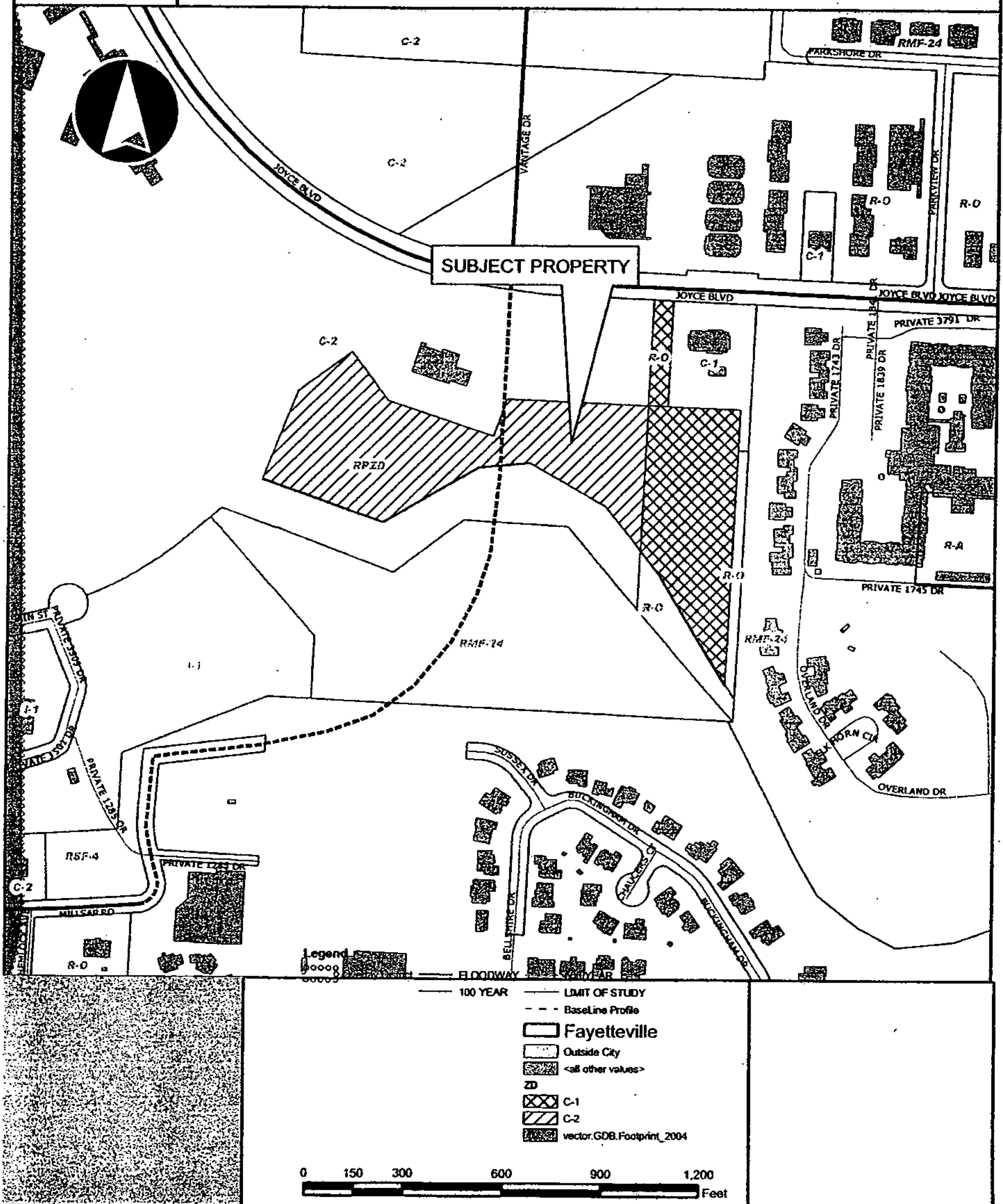
Resources including current zoning regulations, General Plan 2020, Future Land Use Plan, Master Street Plan and Zoning maps are available for review in the Planning Office.

All applicants are encouraged to meet with a staff Planner prior to completing a Rezoning application.

RZN05-1834

Close Up View

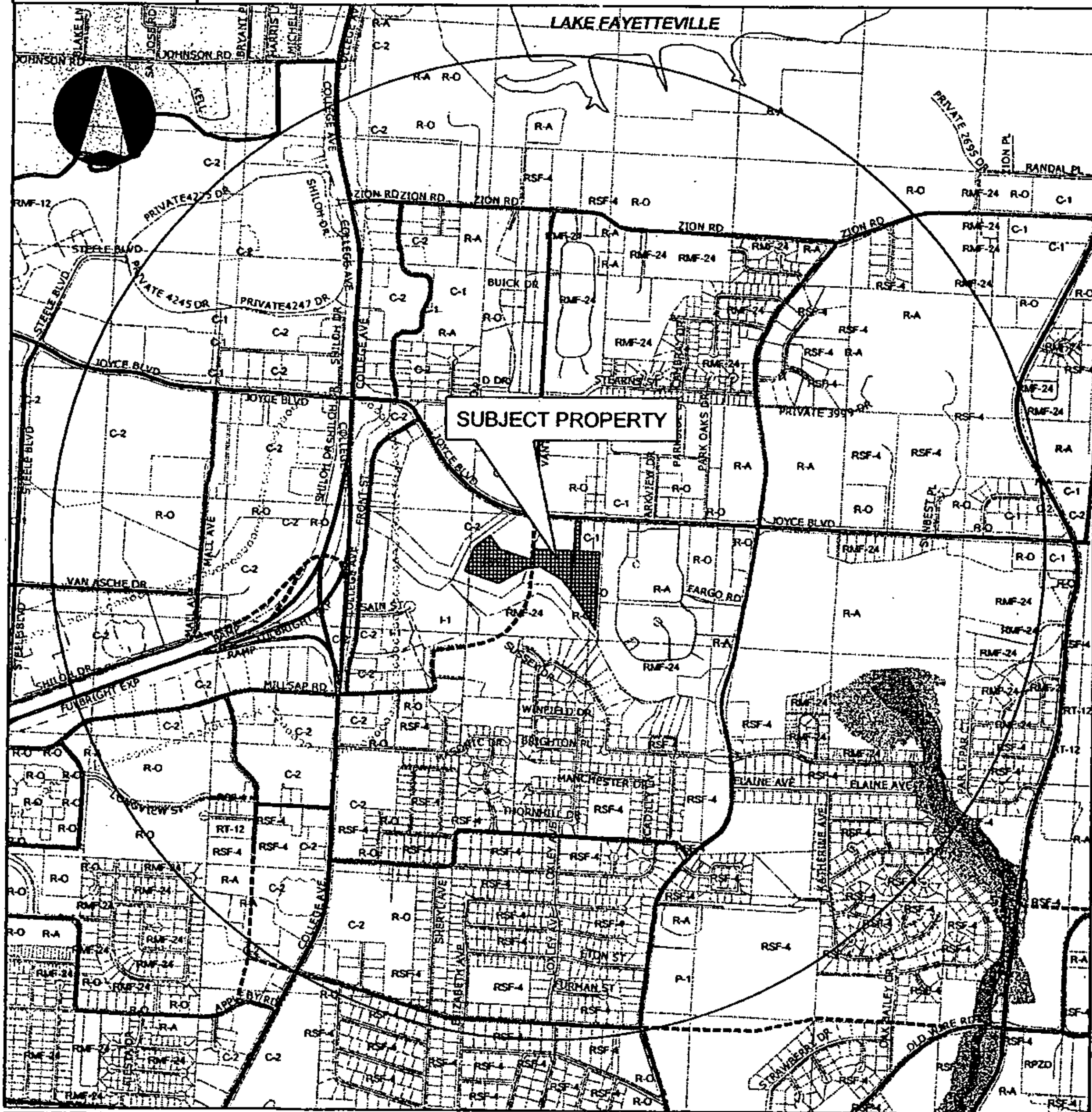
VANTAGE SQUARE



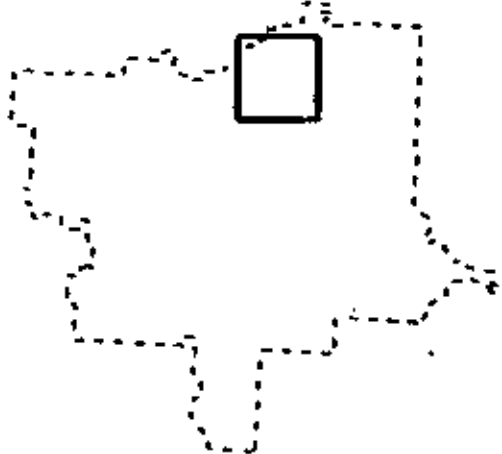
RZN05-1834

One Mile View

VANTAGE SQUARE



Overview



Legend

Subject Property

RZN05-1834

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

1

Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-Jan-06
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

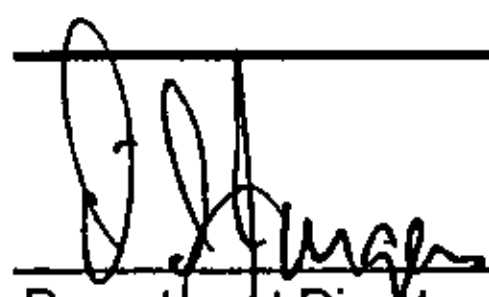
Action Required:

Approval of a construction contract with Garney Construction, Inc, as approved by the Sewer Committee, in the amount of \$4,582,536.60, for construction of the Force Mains from Hamstring Lift Station to the West Side WWTP, WL-5, and approve a 4% contingency of \$183,000.00. Funds are available in Fiscal Year 2005 and 2006 WSIP budget.

\$4,765,536.60	\$ 113,011,587.00	Wastewater System Imp Project
Cost of this request	Category/Project Budget	Program Category / Project Name
4480-9480-5315.00	\$ 85,742,915.94	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0302	\$ 27,268,671.06	Wastewater Sys. Construction
Project Number	Remaining Balance	Water/Sewer
		Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐


Department Director

16 Dec 05
Date

Previous Ordinance or Resolution # _____

Original Contract Date:  _____

Original Contract Number: _____


City Attorney

12/16/2005
Date

Received in City Clerk's Office 


Finance and Internal Service Director

12/19/05
Date

Received in Mayor's Office


Mayor

12/20/05
Date

Comments:

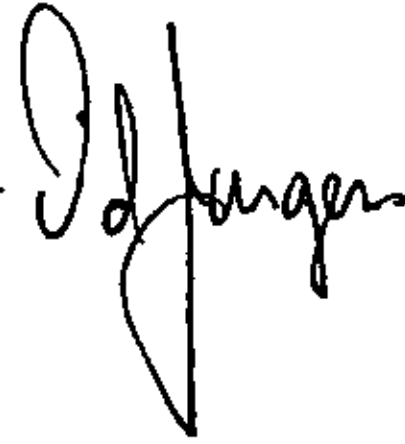
City Council Meeting of January 3, 2006

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: Fayetteville Sewer Committee
David Jurgens, Water/Wastewater Director



Date: December 16, 2005

Subject: Approval of a construction contract with Garney Construction, Inc, as approved by the Sewer Committee, in the amount of \$4,582,536.60, for construction of the Force Mains from Hamestring Lift Station to the West Side WWTP, WL-5, and approve a 4% contingency of \$183,000.00. Funds are available in Fiscal Year 2005 WSIP budget.

RECOMMENDATION

Fayetteville Sewer Committee and City Administration recommend approval of a construction contract with Garney Construction, Inc., in the amount of \$4,582,536.60, for construction of the Force Mains from Hamestring Lift Station to the West Side WWTP, project WL-5, and approve a 4% contingency of \$183,000.00.

BACKGROUND

The City received four bids for this project, as follows:

Garney Const	\$ 4,582,536.60
Kraus Const	5,617,699.00
W. N. Couch Const	5,633,185.50
T-G Excavating	5,777,777.00
Engineer's Estimate	\$ 7,144,276.00

The project entails installing 21,740 feet of 24 and 30 inch parallel force mains from the Hamestring Lift Station site to the West side WWTP.

DISCUSSION

The bid has been reviewed by RJN Group, the Engineer, and the Arkansas Department of Natural Resources. Both recommend award of this bid in the attached letters.

Garney is an excellent contractor. They were one of five that passed the vetting process and was interviewed for the West Side WWTP construction. They have completed several projects for the City, installing the City's 42" water transmission line from the Beaver Water District (BWD) to Fayetteville, a \$2 million sanitary sewer rehabilitation project, and several others. All of these projects were completed very well. They have very recently completed several projects for BWD.

BUDGET IMPACT

Funds are available in Fiscal Year 2005 budget. This contract is expected to be funded by an RLF loan.

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT TO GARNEY CONSTRUCTION, INC. IN THE AMOUNT OF \$4,582,536.60 FOR CONSTRUCTION OF THE FORCE MAINS FROM HAMESTRING LIFT STATION TO THE WEST SIDE WWTP (WL-5); AND APPROVING A 4% CONTINGENCY OF \$183,000.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a construction contract to Garney Construction, Inc. in the amount of \$4,582,536.60 for construction of the force mains from Hamestring Lift Station to the West Side WWTP (WL-5). A copy of the contract marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 4% contingency of \$183,000.00.

PASSED and APPROVED this 3rd day of January, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT



Arkansas Natural Resources Commission



J. Randy Young, PE
Executive Director
101 East Capitol, Suite 350
Little Rock, Arkansas 72201
<http://www.anrc.arkansas.gov/>

Phone: (501) 682-1611
Fax: (501) 682-3991
E-mail: anrc@arkansas.gov

Mike Huckabee
Governor

16 December 2005

David Jurgens, P.E.
Water and Wastewater Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Concurrence in Bid Tabs - Project WL-5
CWRLF-00183- CWRLF-L

Dear Mr. Jurgens:

The bid tabulations and recommendation from your staff has been reviewed by ASWCC staff. The award of the construction contracts as set out below is **approved**.

Sewer System Improvements

Bid Amount

Garney Construction

\$4,582,536.60

The City of Fayetteville may now proceed with formalizing the contracts. Please be advised that the insurance and bonding for the projects must be accomplished through companies and agents licensed through the Arkansas State Insurance Department.

A copy of the contract, or at a minimum, copies of the respective insurance and bonding documents for the contract should be forwarded to ASWCC for review and approval prior to the formal contract signing and the preconstruction conference. The preconstruction conference and contract signing will be scheduled at a time which is mutually agreeable to all parties. Work orders may be issued at the conference.

If you have any questions or concerns, Mr. Scott Savoy, Project Administrator, may be contacted at 501-682-0279. Alternatively, you may contact Mr. Michael Core, P.E., Project Engineer, at 501-682-0556.

Sincerely,

J. Randy Young, P.E.
Executive Director, ANRC

cc: Thomas A. Harris, P.E., RJN Group



Excellence through Ownership

www.rjn.com

November 18, 2005

Mr. Dave Jurgens, P.E.
City of Fayetteville
Director Water and Wastewater
113 West Mountain Street
Fayetteville, AR 72701

NOV 22 2005
OFFICE OF THE CITY CLERK
FAYETTEVILLE, AR

Subject: Fayetteville Westside Wastewater Improvements - WL-5
RJN#18187500

Dear Mr. Jurgens:

RJN has reviewed and processed the Contractor Bids for the above referenced project. All bids are correct as submitted by each contractor. Garney Companies, Inc. is certified to be the low bidder with a total bid amount of four million five hundred eighty-two thousand five hundred thirty-six dollars and sixty cents (\$ 4,582,536.60).

RJN has checked references supplied by Garney Companies, Inc. All references checked have stated that Garney's work has been excellent, completed on time, and they make an extra effort to insure that effected property owners are kept informed and appeased. Garney Companies has completed projects with a total cost of over \$30 Million, and has completed more than 10 projects within the past three years that exceed \$7 Million.

RJN recommends that the contract for WL-5 in the amount of \$ 4,582,536.60 be awarded to the low bidder, Garney Companies, Inc. Attached are the documents submitted by Garney that demonstrate a good faith effort to utilize MBE/WBE firms, the required bonds, and insurance certificate.

Should you have any further questions, please call me at (972) 437-4300.

RJN Group, Inc.

A handwritten signature in black ink, appearing to read "Thomas A. Harris", written over a horizontal line.

Thomas A. Harris, P.E.
Senior Project Manager

Attachments: Bid Tabulation
Bonds
MBE/WBE Documentation
Insurance Certificate
xc: file

City of Fayetteville (Not a Purchase Order)										Requestion No.:		Date:					
Vendor Number: 66480										Vendor Name:		P.O. Number:		Expected Delivery Date:			
Address: 1333 NW Vivian Road										Fob Point:		Taxable		Quotes Attached			
City: Kansas City										State: MO		Zip Code: 64118		Ship to code:			
Requester: David Jurgens										Requester's Employee #:		Extension:		Division Head Approval:			
Account Numbers										490		330					
Item Description										Quantity		Unit of Issue		Unit Cost		Extended Cost	
1 WSIP, WL-6, Force Mains from Hamstring Lift Station										1		EA		4,582,536.60		\$4,582,536.60	
2 to West Side WWTP																	
3																	
4																	
5																	
6																	
7																	
8																	
9																	
10																	
Shipping/Handling												Lot					
Special Instructions:																	
Subtotal:														\$4,582,536.60			
Tax:														\$0.00			
Total:														\$4,582,536.60			

Approvals:	Department Director: 	Purchasing Manager: _____
Mayor: _____	Budget Manager: _____	IT Manager: _____
Finance & Internal Services Director: _____	Utilities Manager: _____	Other: _____
Dispatch Manager: _____		

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jan-06
City Council Meeting Date

Jeremy Pate *JP* Submitted By
Current Planning Division
Operations Department

Action Required:

Approval of an ordinance amending the Unified Development Code to clarify the intent of the accessory structure and use ordinance and definition

\$0.00 Cost of this request	n/a Category/Project Budget	n/a Program Category / Project Name
n/a Account Number	n/a Funds Used to Date	n/a Program / Project Category Name
n/a Project Number	n/a Remaining Balance	n/a Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

[Signature]
Department Director
12.15.05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney
12/14/05
Date

Received in City Clerk's Office
[Stamp: ENTERED 12/15/05]

[Signature]
12/16/05
[Signature]
Mayor
12/16/05
Date

Received in Mayor's Office
[Stamp: ENTERED 12/16/05]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^{JP}

Date: December 15, 2005

Subject: UDC Amendment for Accessory Uses and Structures (ADM 05-1849)

RECOMMENDATION

Planning staff recommends approval of an ordinance amendment to the Unified Development Code, designating an "accessory use and/or structure" as defined by ordinance, to less than 50% of the nature and/or size of the principal use or structure on a property.

BACKGROUND

The Unified Development Code currently defines accessory uses or structures, in terms of zoning, as "a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure." Additionally, under §164: Supplementary Zoning Regulations of the Unified Development Code, there are specific requirements as to when an accessory building may be erected (after the principal structure), where an accessory building may be erected (outside of any required setback), and how it must be affixed if to be considered an integral part of a principal building. However, though defined as "customarily incidental to and subordinate to" the principal structure, the Unified Development Code does not specifically address the size of the accessory use or structure when compared to that of the principal use/structure.

Staff recommends language be added to the Unified Development Code to further clarify that accessory structures are to be of a nature and size less than 50% of the principal use or structure on the property (thereby incidental and subordinate to). This will aid in future determinations for both uses and for issuance of building permits. Attached are staff's proposed ordinance amendments.

DISCUSSION

This item was recommended for approval by the City Council at the regular Planning Commission meeting of December 12, 2005, with a vote of 8-0-0.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE CHAPTER: 151 DEFINITIONS AND CHAPTER: 164 SUPPLEMENTARY ZONING REGULATIONS TO CLARIFY AND DESIGNATE THE INTENT OF THE ACCESSORY STRUCTURES AND USES ORDINANCE.

WHEREAS, the Unified Development Code currently defines accessory uses or structures as "customarily incidental and subordinate to the principal use or structure;" and

WHEREAS, certain accessory structures have been erected in the past that are the same size or larger in size or use than the principal structure on a property; and

WHEREAS, the intent of the accessory definition is for accessory uses or structures to be of less impact in nature and size than the principal use or structure on a property;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §151.01 Definitions: "Accessory use or structure" by deleting that definition in its entirety and replacing it with the following language:

Accessory use or structure. (Zoning) A use or structure on the same lot with, of a nature and size less than 50%, and customarily incidental and subordinate to, the principal use or structure.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §164.02 Accessory Structures And Uses by deleting that subsection in its entirety and replacing it with the following language:

See Exhibit "A" attached hereto and made a part hereof.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.02 Accessory Structures And Uses.

Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 160 through 165, and to the following general conditions:

(A) *Accessory structures.*

- (1) *When erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, UNLESS such accessory structure shall have been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.
- (2) *Integral part of principal structure.* An accessory structure erected as an integral part of the principal structure shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of the building code applicable to the principal structure.
- (3) *Where erected.* No accessory structure shall be erected in any required setback.
- (4) *Size of accessory structure(s).* An accessory structure(s) shall be less than 50% of the size of the principal structure. Any accessory structure(s) requested that is 50% or greater than the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties.

(B) *Swimming pools.* Swimming pools shall not be located in any required front setback.

(Code 1965, App. A, Art. 7 (1); Ord. No. 1747, 6-29-70; Ord. No. 2177, 12-16-75; Ord. No. 3131, 10-1-85; Code 1991, §160.076; Ord. No. 4100, §2 (Ex. A), 6-16-98)



PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: November 29, 2005

ADM 05-1849: Administrative Item (Accessory Structure/Use UDC amendment) Submitted by Planning Staff to amend the Unified Development Code to clarify the intent of the accessory structure and use ordinance.

Planner: JEREMY PATE

RECOMMENDATION: Approval of ordinance amendments to the Unified Development Code to further clarify the desired intent of accessory structures and uses, which are to be customarily incidental and subordinate in nature and size to the principal use or structure on a property.

PLANNING COMMISSION ACTION:	Required YES
	☒ Approved ☐ Denied
Date: <u>December 12, 2005</u>	By: <u>0/0/0</u> 8-0-0
CITY COUNCIL ACTION:	Required YES
	☐ Approved ☐ Denied
Date: <u>January 03, 2006</u>	

BACKGROUND

The Unified Development Code currently defines accessory uses or structures, in terms of zoning, as "a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure." Additionally, under §164: Supplementary Zoning Regulations of the Unified Development Code, there are specific requirements as to when an accessory building may be erected (after the principal structure), where an accessory building may be erected (outside of any required setback), and how it must be affixed if to be considered an integral part of a principal building. However, though defined as "customarily incidental to and subordinate to" the principal structure, the Unified Development Code does not specifically address the size of the accessory use or structure when compared to that of the principal use/structure.

Proposal: Staff recommends language be added to the Unified Development Code to further clarify

that accessory structures are to be of a nature and size less than 50% of the principal use or structure on the property (thereby incidental and subordinate to). This will aid in future determinations for both uses and for issuance of building permits. The language attached is staff's proposed ordinance amendments.

PROPOSED ORDINANCE CHANGES:

~~Strikethrough~~ Text proposed for deletion

Bold Text proposed for insertion

CHAPTER 151: DEFINITIONS

151.01 Definitions

Accessory use or structure. (Zoning) A use or structure on the same lot with, ~~and of a nature~~ **and size less than 50%, and** customarily incidental and subordinate to, the principal use or structure.

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.02 Accessory Structures And Uses.

Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 160 through 165, and to the following general conditions:

(A) *Accessory ~~buildings~~ structures.*

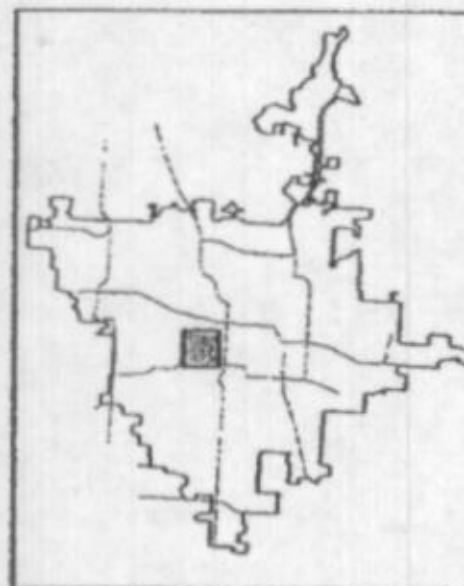
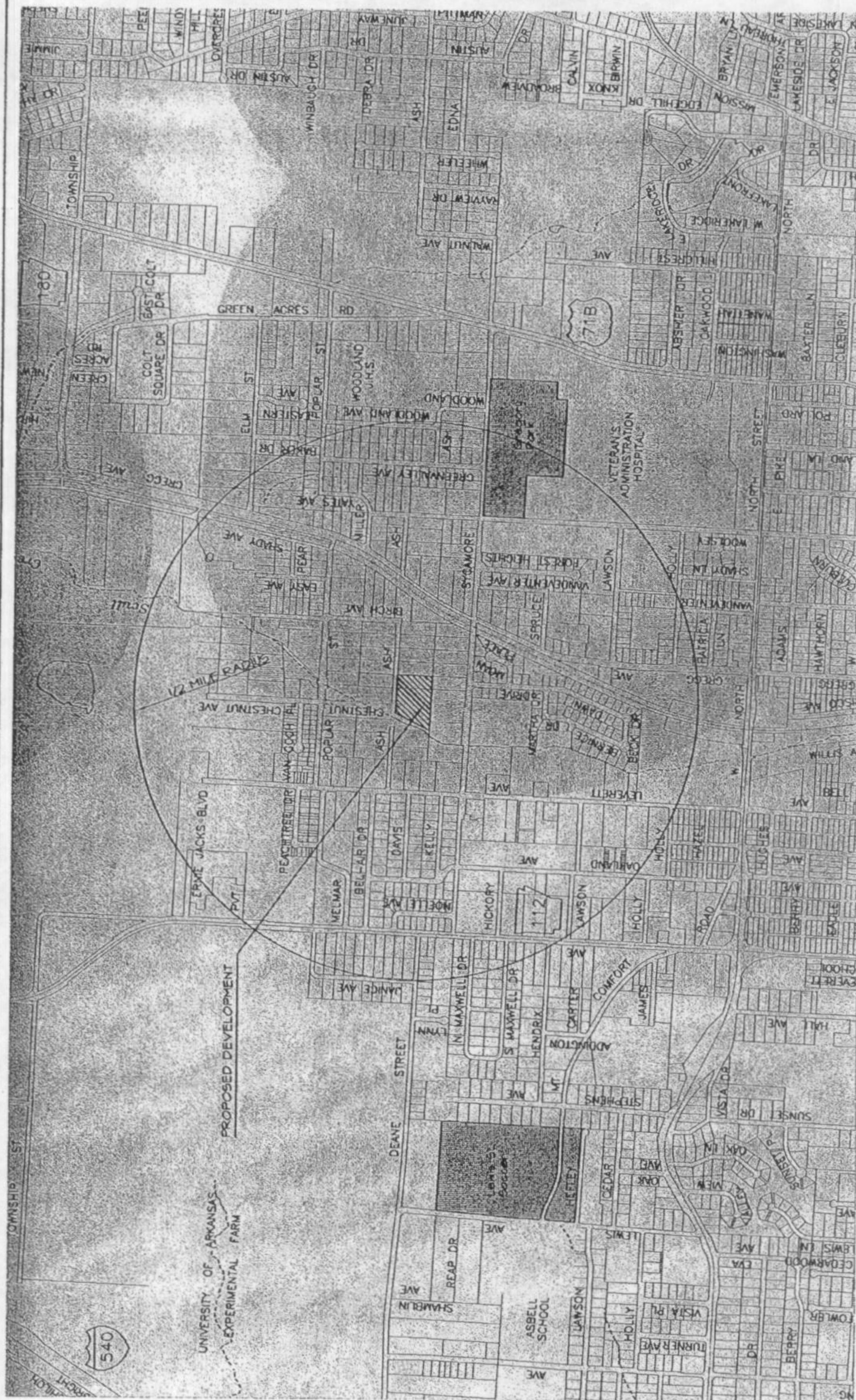
- (1) *When erected.* No accessory ~~building~~ **structure** shall be erected on any property prior to the construction of the principal ~~building~~ **structure**, UNLESS such accessory ~~building~~ **structure** shall have been approved by the Planning Commission as a conditional use. An approved accessory ~~building~~ **structure** erected prior to the principal ~~building~~ **structure** shall not be inhabited.
- (2) *Integral part of principal ~~building~~ structure.* An accessory ~~building~~ **structure** erected as an integral part of the principal ~~building~~ **structure** shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of the building code applicable to the principal ~~building~~ **structure**.
- (3) *Where erected.* No accessory ~~building~~ **structure** shall be erected in any required setback.
- (4) *Size of accessory structure(s).* An accessory structure(s) shall be less than 50% of the size of the principal structure. Any accessory structure(s) requested that is 50% or greater than the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties.

~~(B) *Trash containers.* "Lo-Dal" type trash containers located in any required setback shall be screened along the side(s) of the container which eneroach into the required setback, except that screening shall not be required on the access side of the container. Where a trash container eneroaches totally within a required setback, either the front or the back of the container shall not~~

~~be screened.~~

(C B) *Swimming pools.* Swimming pools shall not be located in any required front setback.

(Code 1965, App. A., Art. 7 (1); Ord. No. 1747, 6-29-70; Ord. No. 2177, 12-16-75; Ord. No. 3131, 10-1-85; Code 1991, §160.076; Ord. No. 4100, §2 (Ex. A), 6-16-98)



- Legend**
- Existing Park Land
 - Community Park Service Area
 - Neighborhood Park Service Area
 - Mini Park Service Area

Skate Place Apartments



PROXIMITY MAP

Skate Place Apartments

PROJECT NUMBER

Homestown Developments, Ltd.

DATE OF PREPARATION

DATE OF REVISION

BY

FOR

SCALE

SHEET 1 OF 1 SHEETS