

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 17, 2006**

A meeting of the Fayetteville City Council will be held on January 17, 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**

2005 State of the City Address – Mayor Coody

Housing Authority Confirmation of Appointment – Betty Turner: APPROVED

A. CONSENT:

- 1. Approval of the November 15, 2005, December 20, 2005 City Council meeting minutes and the December 27, 2005 Special City Council meeting minutes.**

APPROVED.

- 2. West Fork Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 10-06.

- 3. Farmington Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 11-06.

4. **Washington County Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 12-06.

5. **Greenland Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2006.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 13-06.

6. **ADM 06-1899 Gypsum Road Realignment:** A resolution ADM 06-1899 amending the Master Street Plan, realigning the Planned Collector Streets Gypsum Road and Raven Lane that currently traverse through Crystal Springs Subdivision Phase I to north of the current alignment within the approved Rockhaven Subdivision as indicated in the attached maps.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 14-06.

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 ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4818.

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 ordinance was left on the First Reading at the January 3, 2006 City Council meeting. This ordinance was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4819.

3. **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 resolution was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*

THIS ITEM WAS TABLED TO THE FEBRUARY 7, 2006 CITY COUNCIL MEETING.

4. **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 ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*

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5. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4820.

6. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4821.

7. **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 ordinance was left on the Second Reading at the January 3, 2006 meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4822.

C. NEW BUSINESS:

1. **RZN 06-1887 Cato Springs Road:** An ordinance rezoning that property described in rezoning petition RZN 06-1887 for approximately .31 acres located at 1068 Cato Springs Road from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4823.

2. **Dychem International:** An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2006.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4824.

3. **Fayetteville Downtown Partners:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of the Downtown Master Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4825.

D. INFORMATIONAL:

Council Tour: None (City Holiday)

Meeting adjourned at 9:35 p.m.

Adjourn 9:35 PM.

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

Subject:	Housing Authority				
Motion To:		Approve.			
Motion By:		Marr			
Seconded:		Reynolds			
Approve Appointment	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

Subject:	Consent				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Ferrell			
<u>Passed</u> Res. 10-06 to 14-06	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

Subject:	ADM 05-1657 Mt. Sequoyah South Rezoning				
Motion To:		Amend Section #1 & Title	3rd	Pass	
Motion By:		Rhoads	Ferrell		
Seconded:		Marr	Marr		
B.I. Unfinished Amended <u>Passed</u> 4819	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	Reserve LLC - Cost Share				
Motion To:		2nd read	3rd read	Amend to remove the budget adjustment	
Motion By:		Jordan	Marr		
Seconded:		Cook	Jordan		
B. 2. Unfinished	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	N	✓	
	Marr	✓	✓	✓	
	Mayor Coody				

8-0

7-1

8-0

Subject:	Reserve LLC - Cost Share				
Motion To:		Table until the next meeting		Amend title to add \$ Amount	
Motion By:		Cook			
Seconded:		Jordan			
B. 2. Unfinished	Rhoads			✓	
	Ferrell	Withdraw		✓	
	Lucas	the		✓	
	Jordan	table		✓	
	Reynolds	}		✓	
	Thiel			✓	
	Cook			N	
	Marr			N	
	Mayor Coody				

6-2

Subject:	Reserve LLC - Cost Share				
Motion To:		Pass			
Motion By:					
Seconded:					
B.2. Unfinished passed 4819	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	N			
	Thiel	✓			
	Cook	N			
	Marr	✓			
	Mayor Coody				

6-2

Subject:	John D. Lindsey, LLC Condensation				
Motion To:		Table to first meeting in Feb 2/7/06			
Motion By:		Rhoads			
Seconded:		Jordan			
B.3. Unfinished Tabled to 2/7/06	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

Subject:	R-PZD 05-1776 Wedington Circle				
Motion To:		3rd read	Table to 2/7/06		
Motion By:		Jordan	Jordan		
Seconded:		Cook	Lucas		
B.4. Unfinished Tabled to 2/7/06	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	R-PZD 05-1796 Park West				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Lucas		
Seconded:		Lucas	Reynolds		
B.5 - Unfinished Passed 4820	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody				

Subject:		R - PZD - 05-1816 Skate Place Condominium			
Motion To:		2nd read		Amended	
Motion By:		Marr		Jordan	
Seconded:		Ferrell		Lucas	
B.C. Unfinished  L	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
Mayor Coody					

8-0

8-0

Subject:		R PZD 05-1816 Skate Place Condominium			
Motion To:		3rd read	Pass		
Motion By:		Marr			
Seconded:		Cook			
B.C. Unfinished passed 4821	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
Mayor Coody					

8-0

8-0

Subject:		R Z N 05-1833 Bellafont			
Motion To:		3rd read	Pass		
Motion By:		Marr Ferrell			
Seconded:		Marr			
B.7. Unfinished Passed 4822	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
Mayor Coody					

8-0

8-0

Subject:		R Z N 06-1887 Cato Springs Road			
Motion To:		Amend ^{to} RT-12	2nd read	3rd read	Pass
Motion By:		Thiel	Reynolds	Thiel	
Seconded:		Marr	Thiel	Lucas	
C.1. New Business Passed 4823-	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
Mayor Coody					

8-0

8-0

8-0

8-0

Subject:		Dyche International			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Reynolds	Reynolds		
C.2. New Business Passed 4824.	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
Mayor Coody					

Subject:		Dycheville Downtown Partners.			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Marr		
Seconded:		Jordan	Jordan		
C.3, New Business Passed 4825	Rhoads	Recuse	Recuse	Recuse	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	Recuse	Recuse	Recuse	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
Mayor Coody					

6-0

6-0

6-0

From: Jeremy Pate
To: Conklin, Tim; Housley, Judy; Monreal, Cindy; Smith, Sondra; Williams, Kit
Date: 1/18/06 10:51AM
Subject: Ordinances

Judy, please find the attached ordinances you requested from last night's City Council approvals. In future agenda requests to the City Clerk's office (beginning this week), Planning staff will be emailing you the draft ordinances on the day that we submit an item to the City Clerk's office. We hope that this will eliminate the step of you trying to get the information you need from us after City Council approval. Per Kit's instructions, we will no longer amend any ordinances passed by the City Council, only the amendments that affect specific conditions of approval in our staff report, which we will then forward on to you. Additionally, it is my understanding that we will only draft ordinances for ANX, RZN and PZD items (including appeals), but we will no longer draft resolutions or ordinances pertaining to ADM items. Please let me know if there is anything more we can do to help.

RZN 06-1887 Cato Springs Rd (Hoggatt) - this ordinance was amended by CC to rezone to RT-12 (Planning did not amend the ordinance that is attached)

RZN 05-1833 Bellafont - no amendments (a bill of assurance should be attached to this rezoning, though)

MDP R-PZD 05-1796 Park West - no amendments

MDP R-PZD 05-1816 Skate Place - amendments to the conditions of approval (not the ordinance), which we have made and attached, as requested by Kit last night

ADM 06-1899 Gypsum Rd Realignment - no amendments

ADM 05-1657 Mt Sequoyah South - Leif is working on the amendments to the maps/exhibits as requested by Kit last night and we will forward those once GIS and Leif can get finished. The ordinance is attached, but must also be amended per last night's approval.

Thanks,
Jeremy

Jeremy C. Pate
Director of Current Planning
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

1-479-575-8267 phone
1-479-575-8202 fax
jpate@ci.fayetteville.ar.us

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

2005 State of the City Address – Mayor Coody

Housing Authority Confirmation of Appointment – Betty Turner

A. CONSENT:

- 1. Approval of the November 15, 2005, December 20, 2005 City Council meeting minutes and the December 27, 2005 Special City Council meeting minutes.**
- 2. West Fork Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006.
- 3. Farmington Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006.
- 4. Washington County Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006.

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B. UNFINISHED BUSINESS:

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D. INFORMATIONAL:

Council Tour: None (City Holiday)

Agenda Session
1/10/06

Aldermen

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C-2, Thoroughfare Commercial to C-3, Central Commercial. *This ordinance was left on the Second Reading at the January 3, 2006 meeting.*

C. NEW BUSINESS:

1. ✓ **RZN 06-1887 Cato Springs Road:** An ordinance rezoning that property described in rezoning petition RZN 06-1887 for approximately .31 acres located at 1068 Cato Springs Road from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre.
2. **ADM 06-1899 Gypsum Road Realignment:** A resolution ADM 06-1899 amending the Master Street Plan, realigning the Planned Collector Streets Gypsum Road and Raven Lane that currently traverse through Crystal Springs Subdivision Phase I to north of the current alignment within the approved Rockhaven Subdivision as indicated in the attached maps.
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4. **Fayetteville Downtown Partners:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of the Downtown Master Plan.

D. INFORMATIONAL:

Council Tour: None (City Holiday)

Ribbon cutting
Thursday
??

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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
January 17, 2006**

A meeting of the Fayetteville City Council will be held on January 17, 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**

2005 State of the City Address – Mayor Coody

A. CONSENT:

- 1. Approval of the November 15, 2005, December 20, 2005 City Council meeting minutes and the December 27, 2005 Special City Council meeting minutes.**
- 2. West Fork Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006.
- 3. Farmington Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006.
- 4. Washington County Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006.
- 5. Greenland Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2006.

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 ordinance was left on the Second Reading at 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. This ordinance was left on the First Reading at the January 3, 2006 City Council meeting. This ordinance was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*
3. **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 resolution was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*
4. **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 ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*
5. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*
6. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*
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D. INFORMATIONAL:

Council Tour: None (City Holiday)

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Erin Emis, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

InaO Agunda was inserted in the regular editions on
January 16, 2006.

PO# _____

** Publication Charge: \$ 260.00

Subscribed and sworn to before me this

16 day of January 2006.

Sharlene D. Williams
Notary Public

Sharlene D. Williams
Notary Public

My Commission Expires:

State of Arkansas
My Commission Expires
October 18, 2014

** Please do not pay from Affidavit.
An invoice will be sent.

RECEIVED
JAN 20 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
JANUARY 17, 2006**



A meeting of the Fayetteville City Council will be held on January 17, 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**

2005 State of the City Address - Mayor Coody

Housing Authority Confirmation of Appointment - Betty Turner

A. CONSENT:

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D. INFORMATIONAL:

Council Tour: None (City Holiday)

WE APPRECIATE YOUR BUSINESS

Arkansas Democrat-Gazette, NW Ed.
212 N. East Avenue
Fayetteville, AR 72701
479-442-1700

VISA PURCHASE

CARD #*****4345*

EXPIRATION DATE : *****

DATE 01-17-2006 #011148 A

TIME 09:03:00

SALE 260.61

APPROVED 005908

AVS: YES

CLERK : Ashley Stewart

MERCH ORDER# :

ITEM DESC:_____

X _____

PLEASE IMPRINT CARD

----- THANK YOU -----

RECEIVED
JAN 20 2006
FAYETTEVILLE
CITY CLERK'S OFFICE

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **January 18, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting
of January 17, 2006**

1. **West Fork Animal Sheltering Services:** Resolution approving interlocal agreement between Fayetteville and West Fork to provide animal sheltering services to West Fork for 2006;
2. **Farmington Animal Sheltering Services:** Resolution approving interlocal agreement between Fayetteville and Farmington to provide animal sheltering services to Farmington for 2006;
3. **Washington County Animal Sheltering Services:** Resolution approving interlocal agreement between Fayetteville and Washington County to provide animal sheltering services to Washington County for 2006;
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7. **Reserve LLC – Cost Share Agreement:** Ordinance waiving requirements of formal competitive bidding and approving cost share agreement w/Reserve, LLC in amount not to exceed \$661,316.91 for widening of Ruppel Road and Persimmon Street adjacent to Mountain Ranch Development;

8. **R-PZD 05-1796:** Ordinance establishing 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 official zoning map of City and adopting Associated Master Development Plan;

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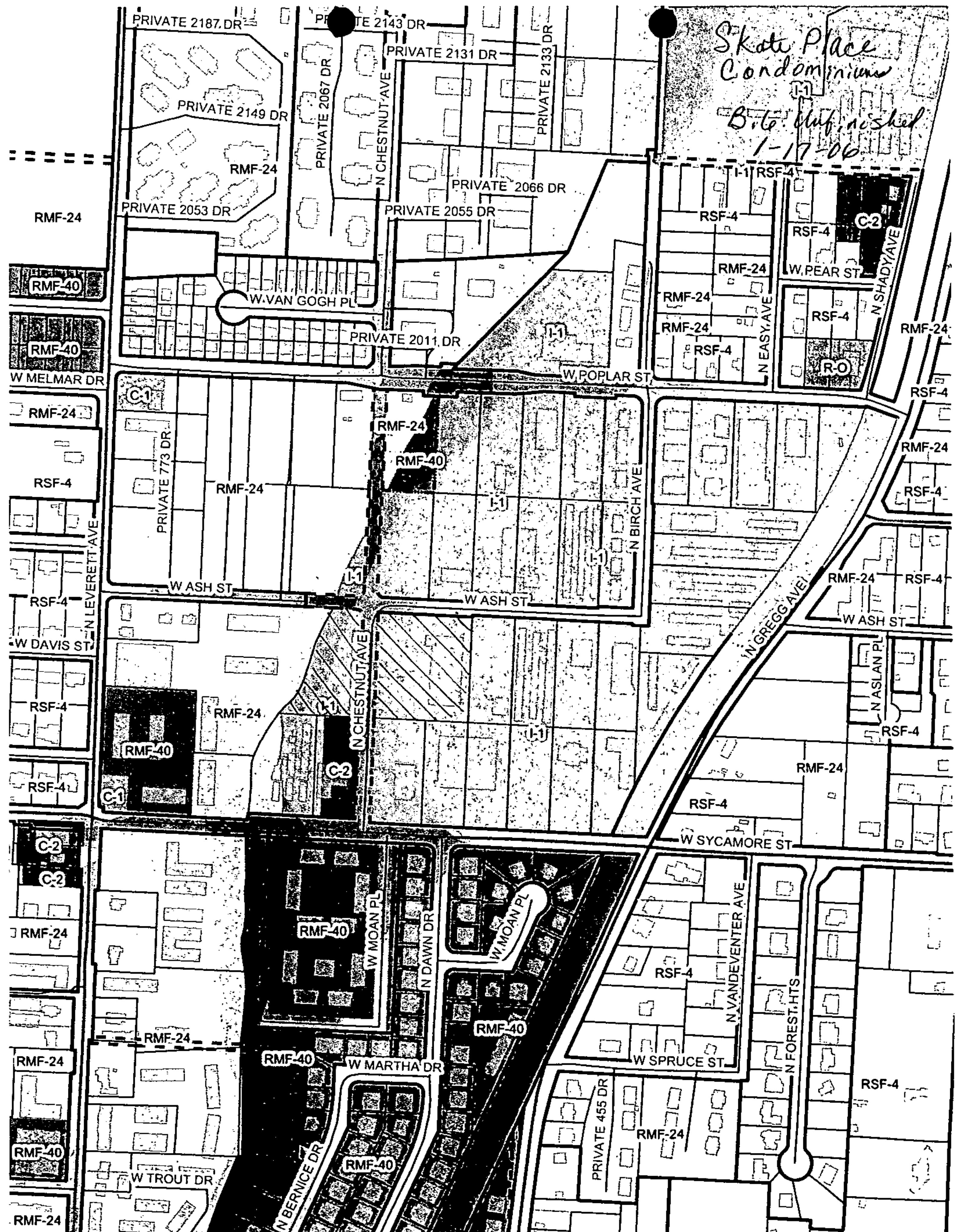
11. **RZN 06-1887:** Ordinance rezoning property described in RZN 06-1887 for approximately .31 acres located at 1068 Cato Springs Road from I-1, Heavy Commercial/Light Industrial to RT-12, Residential two and three family, 12 units per acre;

12. **Dychem International:** Ordinance waiving competitive bidding and awarding extension of contract w/Dychem International through end of 2006;

13. **Fayetteville Downtown Partners:** Ordinance waiving requirements of formal competitive bidding and approving contract for services w/Fayetteville Downtown Partners in amount of \$90,000.00 to assist in implementation of Downtown Master Plan.

Skate Place
Condominium

Site Map, revised
1-17-06



Park West

B.5. Unfinished

4/17/06

We are concerned not only from an environmental standpoint, but also about possible damage to our property. We have wetlands on our property, just north of the property line. If Park West is developed right up to our property line, with all the infrastructure, foundations, buildings, and streets that could affect the natural flow of water from north to south, those improvements could adversely affect our property. We think it would be appropriate to ask for more time to allow a geologist or an engineer that specializes in wetlands, or whomever the professional would be that could provide a study on the effects development would have, to take a close look at our land, the Park West land, and what adverse effects we might get as a result of development.

Dale & Marti Benedict

1-17-06

Traffic Study

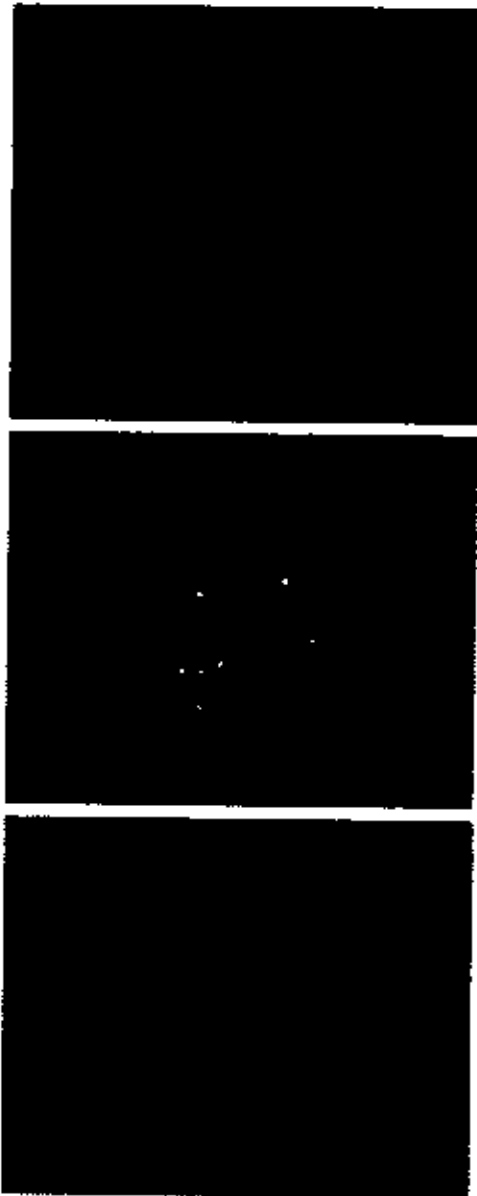
MIXED-USE DEVELOPMENT

prepared for:



Highway 112
and
Deane Solomon Road

Fayetteville, Arkansas



A handwritten signature in black ink, appearing to read "Ernest J. Peters".

Project No.: P-1047

Revised: December 5, 2005



**PETERS & ASSOCIATES
ENGINEERS, INC**

• CIVIL & TRAFFIC ENGINEERING •
P.O. BOX 21638 (501) 225-0500
LITTLE ROCK, ARKANSAS 72221

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APPENDIX

Site Plan

Capacity and Level of Service Calculations

Traffic Signal Warrants and Results



PETERS & ASSOCIATES
ENGINEERS, INC.

EXECUTIVE SUMMARY

Peters & Associates Engineers, Inc., has conducted a traffic engineering study relating to a proposed mixed-use development (Park West at the Audubon) located on the southwest side of Highway 112 and east of Deane Solomon Road in Fayetteville, Arkansas. The mixed-use development is proposed to consist of a variety of commercial and residential uses as indicated on the project site plat (a reduced copy of the plat is included in the Appendix for reference).

There are several other developments planned and proposed in the vicinity of this development which have been taken into consideration as a part of this study.

Existing 24-hour traffic counts were gathered by this consultant as a part of this study in the vicinity of the site at the following locations:

- Highway 112, Just south of Van Asche Drive (Highway 112 is north/south at this location)
- Highway 112 just east of Deane Solomon Road (Highway 112 is east / west at this location)
- Van Asche Drive, just east of Highway 112
- Deane Solomon Road, just south of Highway 112
- County Road 894, just west of Deane Solomon Road.

There are no planned transportation improvements by the Arkansas State Highway and Transportation Department (AHTD) or by the City in the vicinity of the development. The City is promoting to the public a \$160 million bond issue. Included as a part of this bond issue is to widen Highway 112 from I-540 to the north to Van Asche Drive to a four-lane roadway. This has not been included as a part of this study because it has not yet been approved.

Projected traffic volumes for full-build-out of the proposed development were calculated. These projected trips were added to the existing traffic volumes with an eight percent per year growth rate for five-years included to account for the planned and proposed development in the vicinity of the site, which resulted in total projected traffic volumes at full-build-

Traffic Study

out of the Park West development. Additionally, projected traffic volumes for Phase 1 (includes Phases 1A and 1B) only of the Park West development were calculated. These Phase 1 projected trips were added to the existing traffic volumes in the vicinity of the site.

Capacity and LOS analysis was performed for AM and PM peak hours for the projected full-build-out of this development with a five-year growth factor included in the projected traffic conditions with the roadway improvements and schematic lane geometry and recommended minimum turn-lane lengths shown on Figure 11, "Recommended Schematic Lane Geometry." Additionally, capacity and LOS was performed for AM and PM peak hours for the projected Phase 1 development of the site.

Recommendations for improvements to accommodate the traffic associated with this development (plus five-year growth) have been identified. Staged implementation of overall improvements consistent with the individual phases of development as described have been examined and found to be reasonable and appropriate to mitigate traffic impacts associated with the development. Recommendations resulting from this analysis are as follows:

- It is recommended that the roadway lane geometry, recommended turn-lane lengths and traffic signal control be constructed as shown on Figure 11, "Recommended Schematic Lane Geometry." These proposed roadway improvements should be constructed consistent with development phases as proposed.
- It is recommended that Park West Boulevard be constructed as boulevard type facility from Highway 112 to the first north/south street to the west, and then as a two-lane street with adjacent parallel parking from the first north/south street west of Highway 112 to west of New Street C (as depicted on the attached site plan). It is also recommended that Park West Boulevard be constructed as a three-lane roadway from just west of the parallel parking to Dean Solomon Road. Additionally, it is recommended

Traffic Study

that turn lanes with appropriate tapers be constructed on Park West Boulevard at intersections with cross streets as has been proposed.

- It is recommended that New Street C be constructed as a 28-foot wide roadway plus adjacent on-street parking within the proposed development. This street will connect with existing Truckers Lane to the south.
- It is recommended that, as a part of this development, Deane Solomon Road be realigned slightly to the east to intersect Highway 112 and be constructed as a 36-foot wide roadway within the project limits.
- It is recommended that a fully actuated traffic signal be installed at the Highway 112 and Park West Boulevard intersection coincident with the site development.
- It is recommended that this developer participate in the cost of construction of a fully actuated traffic signal at the Highway 112 and Van Asche Drive intersection. (Full-build site-generated traffic is calculated to be approximately 36 percent of the projected total volume on Van Asche Drive.)

The full extent of improvements to mitigate traffic impacts associated with this development for full-build conditions is shown on Figure 11, "Recommended Schematic Lane Geometry."

For Phase 1 development, the following improvements should be made:

- A fully actuated traffic signal be installed at the Highway 112 and Park West Boulevard intersection.
- This developer should participate in the cost of construction of a fully actuated traffic signal at the Highway 112 and Van Asche Drive intersection.



Traffic Study

- It is recommended that, as a part of this development, Deane Solomon Road be realigned slightly to the east to intersect Highway 112 and be constructed as a 36-foot wide roadway within the project limits.
- Improvements on Highway 112 at the following locations as a part of Phase 1 development should be the same as those called for as a part of full-build conditions (see Figure 11, "Recommended Schematic Lane Geometry,"):
 - Highway 112 and Park West Boulevard
 - Highway 112 and New Street A
 - Highway 112 and New Street B
 - Highway 112 and New Street D
 - Highway 112 and Deane Solomon Road.

Roadway improvements and traffic signal designs on Highway 112, in the vicinity of the site, must conform to AHTD and City of Fayetteville standards and will require approval by both AHTD and the City.

Roadway improvements to all other roadways, in the vicinity of the site, must conform to City of Fayetteville standards and will require approval by the City.

INTRODUCTION

Peters & Associates Engineers, Inc., has conducted a traffic engineering study relating to a proposed mixed-use development (Park West) located on the southwest side of Highway 112 and east of Deane Solomon Road in Fayetteville, Arkansas. The mixed-use development is proposed to consist of a variety of commercial and residential uses as indicated on the project site plat (a reduced copy of the plat is included in the Appendix for reference).

There are several other developments planned and proposed in the vicinity of this development which have been taken into consideration as a part of this study.

This is a report of methodology and findings relating to a traffic engineering study undertaken to:

- o Evaluate existing traffic conditions at the site.
- o Ascertain projected traffic operating conditions at adjacent study intersections and the new street intersections proposed to serve the development with five-year background growth not associated with the site.
- o Identify the effects on traffic operations resulting from existing traffic with a five-year growth factor in combination with site-generated traffic associated with the development.
- o Evaluate proposed access to the site and make recommendations for mitigative improvements which may be necessary and appropriate to ensure minimum impact and acceptable traffic operations.
- o Examine staged implementation of improvements consistent with development phases as planned.

In the following sections of this report there are presented traffic data, study methods, findings and recommendations of this traffic engineering investigation. The traffic engineering study is technical in nature. Analysis tech-



niques employed are those most commonly used in the traffic engineering profession for traffic impact analysis. Certain data and calculations relative to traffic operational analysis are referenced in the report. Complete calculations and data are included in the Appendix of the report.

THE SITE

The location of the development is within the City of Fayetteville in Washington County, Arkansas. The site is located on the southwest side of Highway 112 and east of Deane Solomon Road. The proposed development site location and vicinity are shown on Figures 1 and 2, which follow.

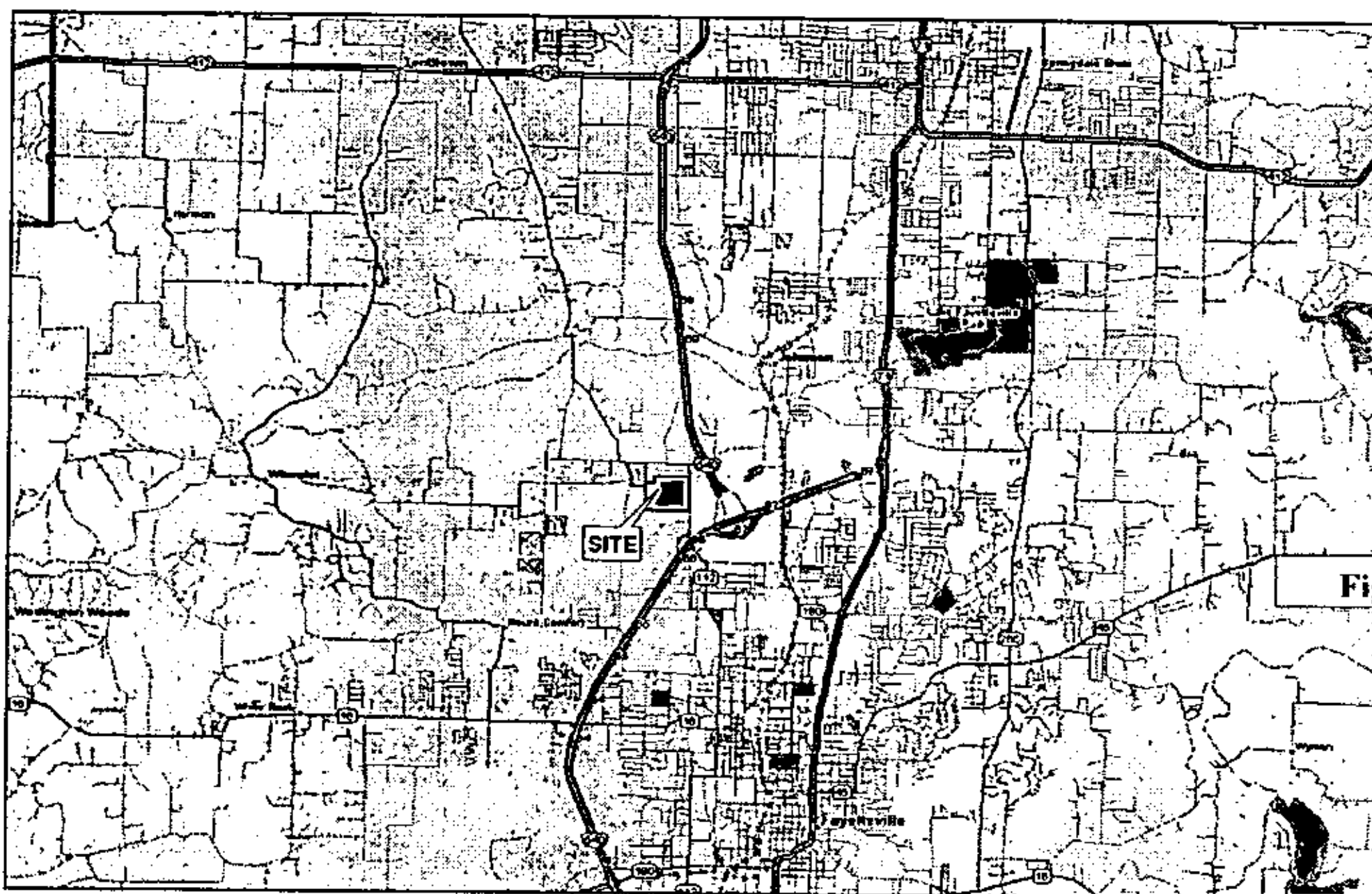
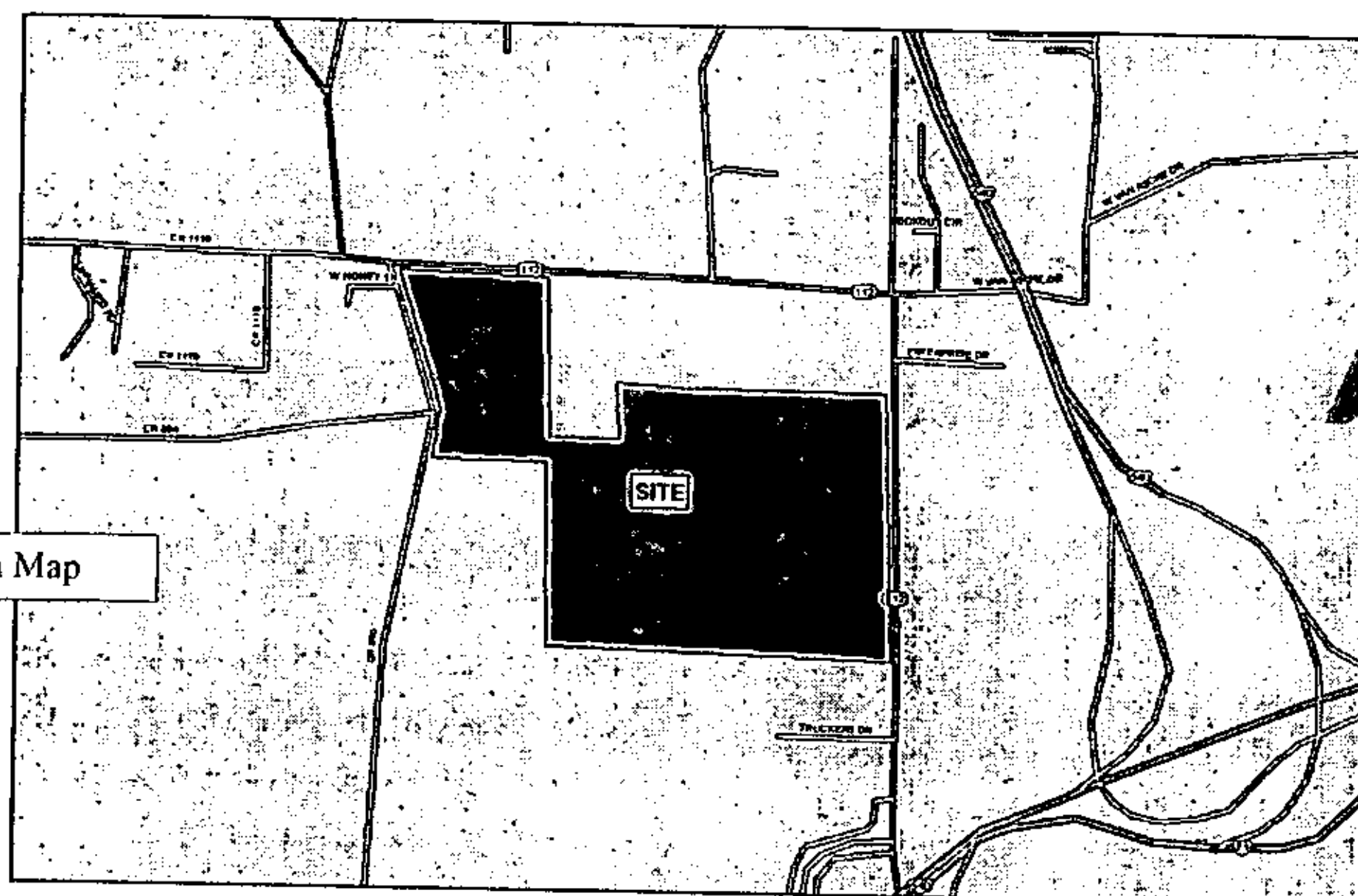


Figure 1 - Vicinity Map

Figure 2 – Site Location Map



Access to the site, as shown on the site plan, is from several points of access. Access to the site has been analyzed for the following intersections as a part of this study:

- o Highway 112 and Par West Boulevard
- o Highway 112 and New Street A
- o Highway 112 and New Street B
- o Highway 112 and New Street D
- o Highway 112 and Realigned Deane Solomon Road
- o Park West Boulevard and New Street C
- o Park West Boulevard and Realigned Deane Solomon Road
- o Park West Boulevard and New Street C
- o Highway 112 and Van Asche Drive.

The site plan shows the proposed residential locations, the tracts for proposed commercial and the approximate location of the new streets. The site currently is an undeveloped tract. The phases of the site are listed on Table 6, "Trip-Generation Summary," and are summarized as follows:

Phase 1A-Planning Area 1 The Heights at Park West

- o Realignment and reconstruction of Deane Solomon Road
- o Closing of existing intersection of Dean Solomon Road and Highway 112
- o Extension of Honey Lane
- o First dedication of Park Land to the Parks Department of approximately 2.18 acres.

Phase 1B-Planning Area 14 Thoroughfare Commercial

- o Improvements to Highway 112 including widening, curb and gutter, and storm drainage
- o Signalization per traffic study and AHTD
- o Extension of public utilities
- o Construction of boulevard entrance to Planning Area 11
- o Detention facilities in Planning Area 19.

Phase 2-Planning Area 2 Townhomes/Single Family Attached

- o Internal infrastructure
- o Extension of public utilities
- o Development of preserve/botanical area Planning Area 7
- o Street extension to Planning Area 1 and Highway 112
- o Dedication of Park Land to the Parks Department of approximately 1.73 acres.

Phase 3A-Planning Area 11 Mixed Use (east)

- o Internal infrastructure
- o Extension of public utilities
- o Construction of civic lawn Planning Area 10
- o Development of preserve/botanical area Planning Area 8
- o Extension of Park West Boulevard
- o Secondary connection to Highway 112
- o Expansion detention facilities Planning Area 9.

Traffic Study

Phase 3B-Planning Area 11 Mixed Use (west)

- o Internal infrastructure
- o Extension of public utilities
- o Development of preserve/botanical area Planning Area 8
- o Secondary connection to Planning Area 1 and Planning Area 2
- o Expansion detention facilities Planning Area 9.

Phase 4-Planning Area 5 Multi-Family Residential

- o Extension of public utilities
- o Dedication of remaining Park Land to the Parks Department
- o Local infrastructure.

Phase 5-Planning Area 14 Neighborhood Commercial

- o Extension of public utilities
- o Local infrastructure.

Phase 6-Planning Area 12 Mixed Use

- o Extension of public utilities
- o Secondary street connection to south property line.

Phase 7-Planning Area 4 Courtyard Condominiums

- o Extension of public utilities
- o Local infrastructure.

Phase 8-Planning Area 3 Plaza Condominiums

- o Extension of public utilities
- o Local infrastructure.



STREET SYSTEM

Highway 112, throughout the vicinity of the site, consists of two lanes and is constructed with shoulders and drainage ditches. There are no sidewalks and the speed limit is 45 miles per hour in the vicinity of the site. This highway is constructed with asphalt.

Van Asche Drive is two lanes and serves as the east leg where it intersects Highway 112 at the location where Highway 112 changes from northbound and southbound to eastbound and westbound. Van Asche Drive is asphalt and constructed with shoulders and drainage ditches with no sidewalks.

Deane Solomon Road, just south of Highway 112, is a two-lane asphalt roadway constructed with curbs and gutters. There are sidewalks along the west side of the road.

There are no existing traffic signals in the immediate vicinity of the study area.

EXISTING TRAFFIC CONDITIONS

Hourly, 24-hour traffic counts were made at the following locations in the vicinity of the site by this consultant as a part of this study:

STREET	24-HOUR TWO-WAY VOLUME	TABLE & CHART
Highway 112, Just South of Van Asche Drive	6,789	Table 1/Chart 1
Highway 112, Just East of Deane Solomon Road	5,434	Table 2/Chart 2
Van Asche Drive, Just East of Highway 112	3,103	Table 3/Chart 3
Deane Solomon Road, Just South of Highway 112	782	Table 4/Chart 4
County Road 894, just west of Deane Solomon Road	152	Table 5/Chart 5

Hourly 24-hour traffic count data at these locations is summarized on Table and Chart 1 - 5 which follow. The 24-hour count data, made as a part of this study, is shown on Figure 3, "Existing Traffic Volumes."

Traffic Study

TIME	Hwy 112, Just South of Van Asche Drive		
	Northbound	Southbound	NB + SB
01:00 PM	241	195	436
02:00 PM	201	230	431
03:00 PM	259	260	519
04:00 PM	284	296	580
05:00 PM	294	278	572
06:00 PM	159	171	330
07:00 PM	129	117	246
08:00 PM	92	97	189
09:00 PM	51	57	108
10:00 PM	30	34	64
11:00 PM	16	27	43
12:00 AM	9	10	19
01:00 AM	13	11	24
02:00 AM	9	7	16
03:00 AM	7	9	16
04:00 AM	15	18	33
05:00 AM	32	56	88
06:00 AM	139	179	318
07:00 AM	296	253	549
08:00 AM	289	215	504
09:00 AM	198	163	361
10:00 AM	208	206	414
11:00 AM	230	234	464
12:00 PM	221	244	465
24-Hour Total:	3422	3367	6789

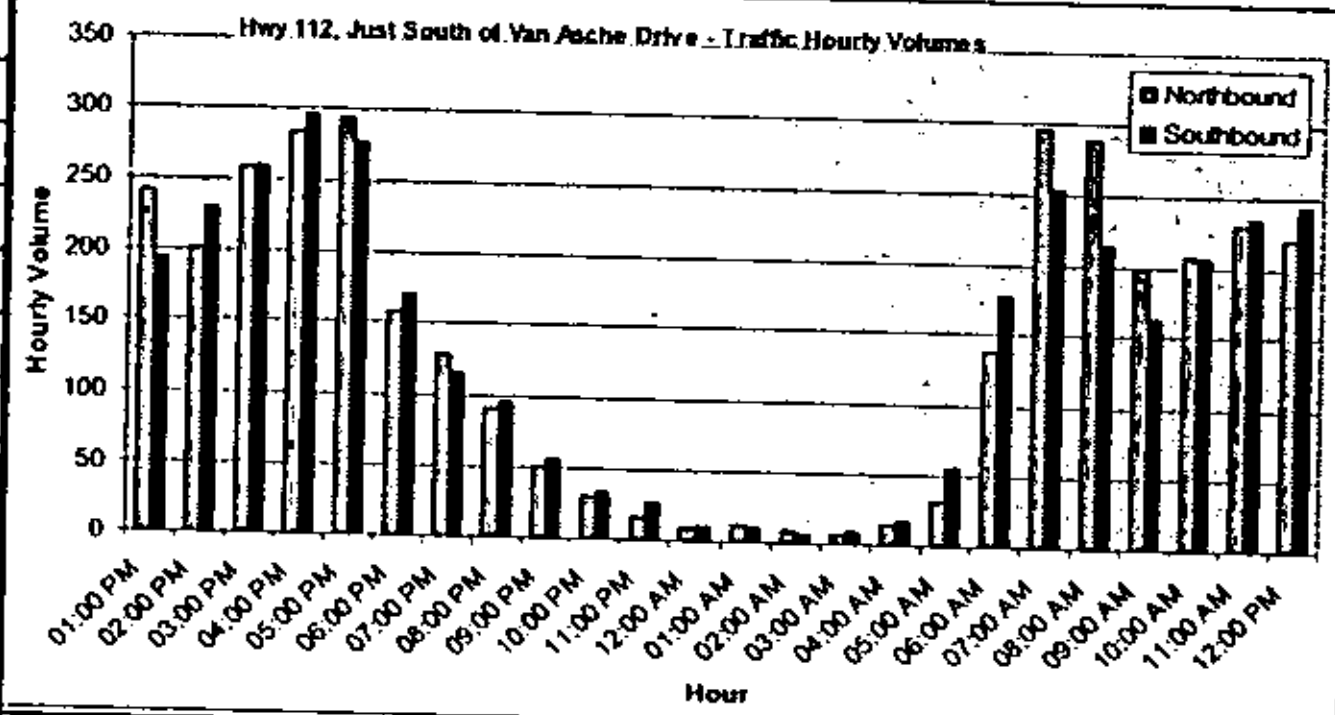
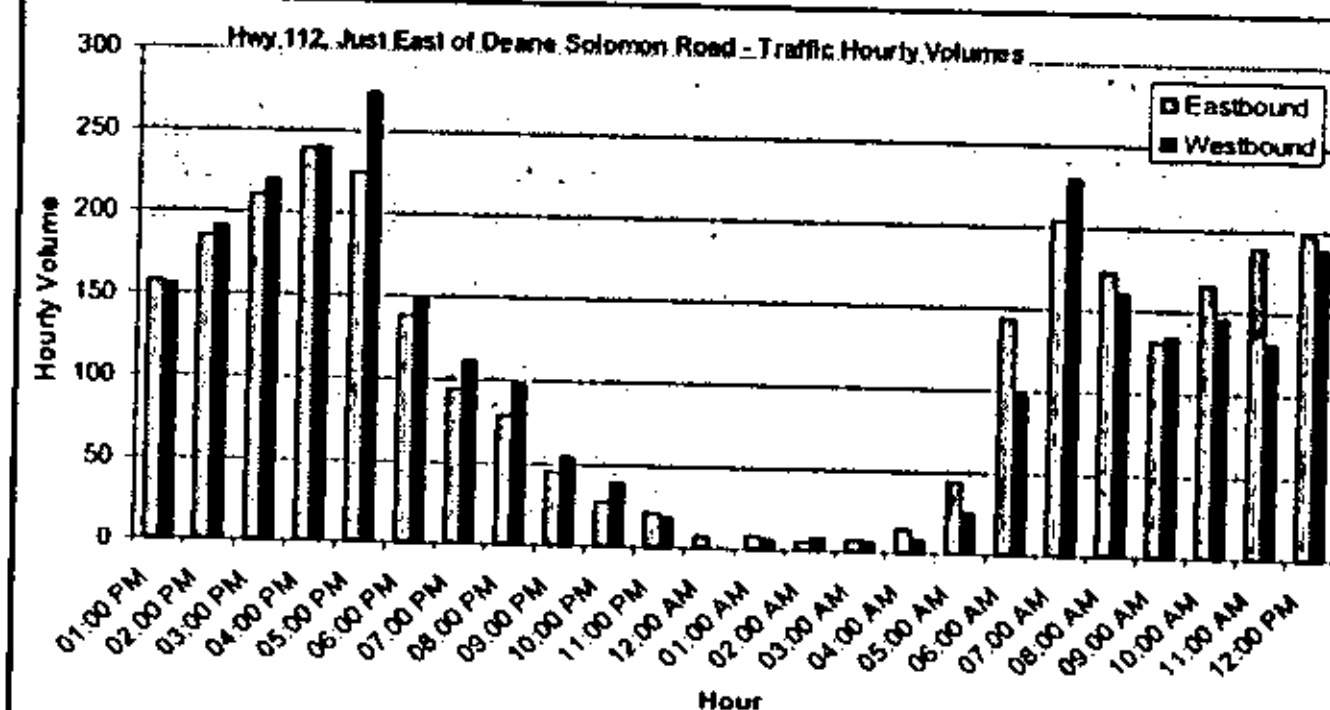


Table 1—Chart 1 24-Hour Traffic Counts
Highway 112, Just South of Van Asche Drive

Table 2—Chart 2 24-Hour Traffic Counts
Highway 112, Just East of Deane Solomon Road



TIME	Hwy 112, Just East of Deane Solomon Road		
	Eastbound	Westbound	EB + WB
01:00 PM	158	156	314
02:00 PM	186	192	378
03:00 PM	211	220	431
04:00 PM	240	241	481
05:00 PM	225	274	499
06:00 PM	139	149	288
07:00 PM	95	112	207
08:00 PM	79	98	177
09:00 PM	46	55	101
10:00 PM	28	40	68
11:00 PM	22	19	41
12:00 AM	8	0	8
01:00 AM	9	7	16
02:00 AM	6	9	15
03:00 AM	7	7	14
04:00 AM	15	9	24
05:00 AM	45	26	71
06:00 AM	145	98	243
07:00 AM	205	230	435
08:00 AM	174	161	335
09:00 AM	132	135	267
10:00 AM	167	147	314
11:00 AM	190	132	322
12:00 PM	198	190	388
24-Hour Total:	2727	2707	5434

Traffic Study

TIME	Van Asche Drive, Just East of Hwy 112		
	Eastbound	Westbound	EB + WB
01:00 PM	84	86	170
02:00 PM	114	101	215
03:00 PM	110	139	249
04:00 PM	137	136	273
05:00 PM	143	132	275
06:00 PM	80	50	130
07:00 PM	55	49	104
08:00 PM	53	40	93
09:00 PM	22	20	42
10:00 PM	11	5	16
11:00 PM	3	7	10
12:00 AM	4	0	4
01:00 AM	4	2	6
02:00 AM	3	3	6
03:00 AM	5	5	10
04:00 AM	8	15	23
05:00 AM	28	38	66
06:00 AM	87	83	170
07:00 AM	139	117	256
08:00 AM	102	119	221
09:00 AM	83	88	171
10:00 AM	73	113	186
11:00 AM	82	98	180
12:00 PM	117	110	227
24-Hour Total:	1547	1556	3103

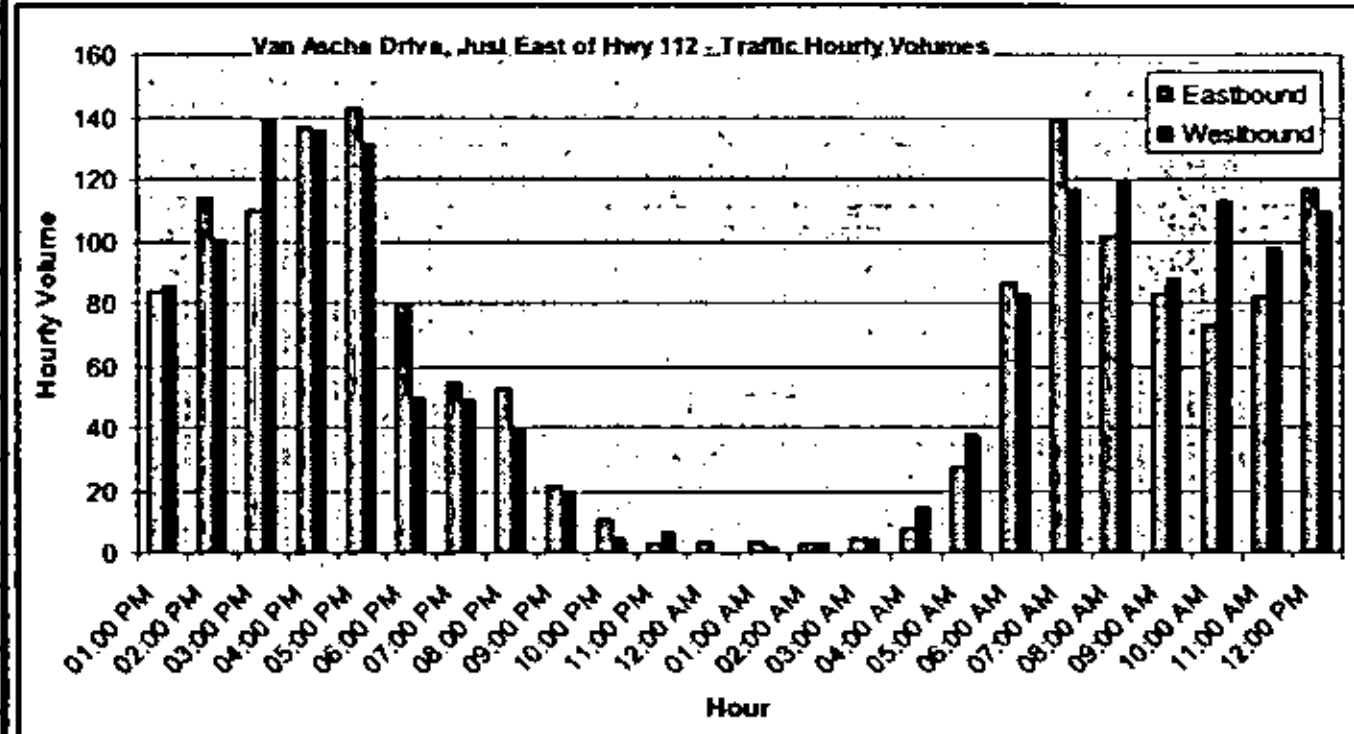
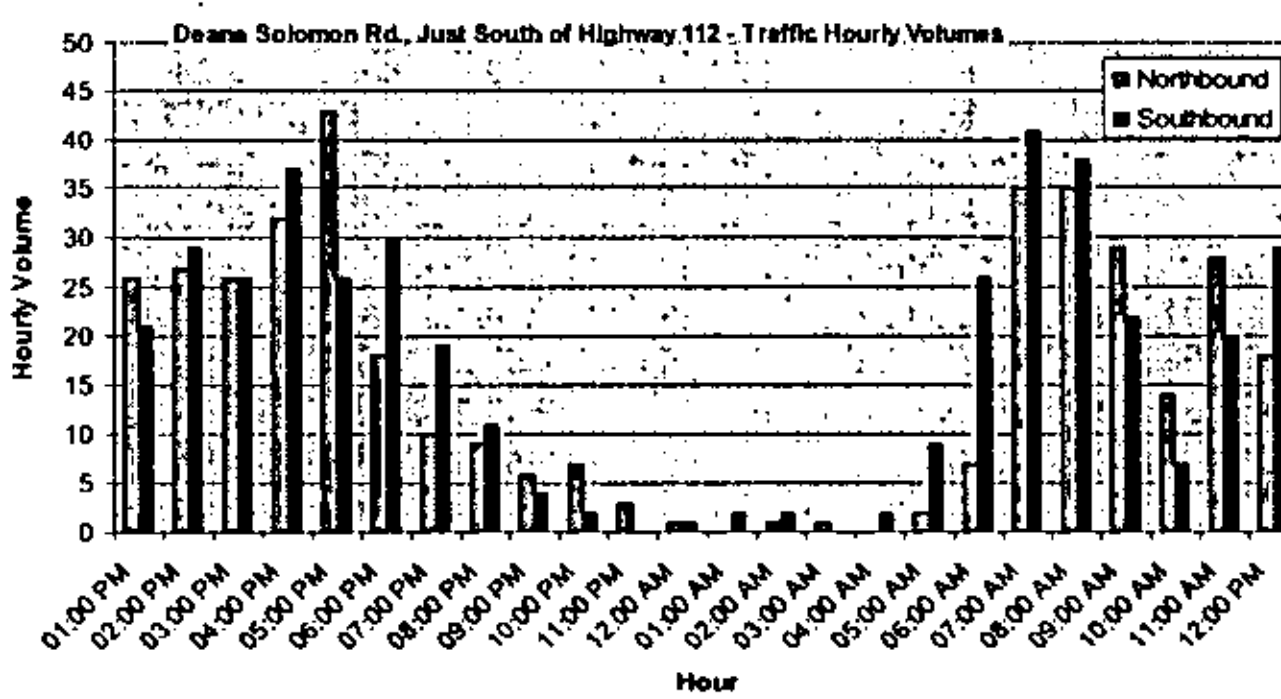


Table 3—Chart 3 24-Hour Traffic Counts
Van Asche Drive, Just East of Highway 112

Table 4—Chart 4 24-Hour Traffic Counts
Deane Solomon Road, Just South of Highway 112



TIME	Deane Solomon Rd., Just South of Highway 112		
	Northbound	Southbound	NB + SB
01:00 PM	26	21	47
02:00 PM	27	29	56
03:00 PM	26	26	52
04:00 PM	32	37	69
05:00 PM	43	26	69
06:00 PM	18	30	48
07:00 PM	10	19	29
08:00 PM	9	11	20
09:00 PM	6	4	10
10:00 PM	7	2	9
11:00 PM	3	0	3
12:00 AM	1	1	2
01:00 AM	0	2	2
02:00 AM	1	2	3
03:00 AM	1	0	1
04:00 AM	0	2	2
05:00 AM	2	9	11
06:00 AM	7	26	33
07:00 AM	35	41	76
08:00 AM	35	38	73
09:00 AM	29	22	51
10:00 AM	14	7	21
11:00 AM	28	20	48
12:00 PM	18	29	47
24-Hour Total:	378	404	782

Traffic Study

TIME	County Road 894 Eastbound + Westbound
01:00 PM	10
02:00 PM	8
03:00 PM	12
04:00 PM	13
05:00 PM	14
06:00 PM	8
07:00 PM	5
08:00 PM	5
09:00 PM	3
10:00 PM	2
11:00 PM	1
12:00 AM	1
01:00 AM	0
02:00 AM	0
03:00 AM	0
04:00 AM	1
05:00 AM	2
06:00 AM	8
07:00 AM	13
08:00 AM	11
09:00 AM	9
10:00 AM	7
11:00 AM	8
12:00 PM	11
24-Hour Total:	152

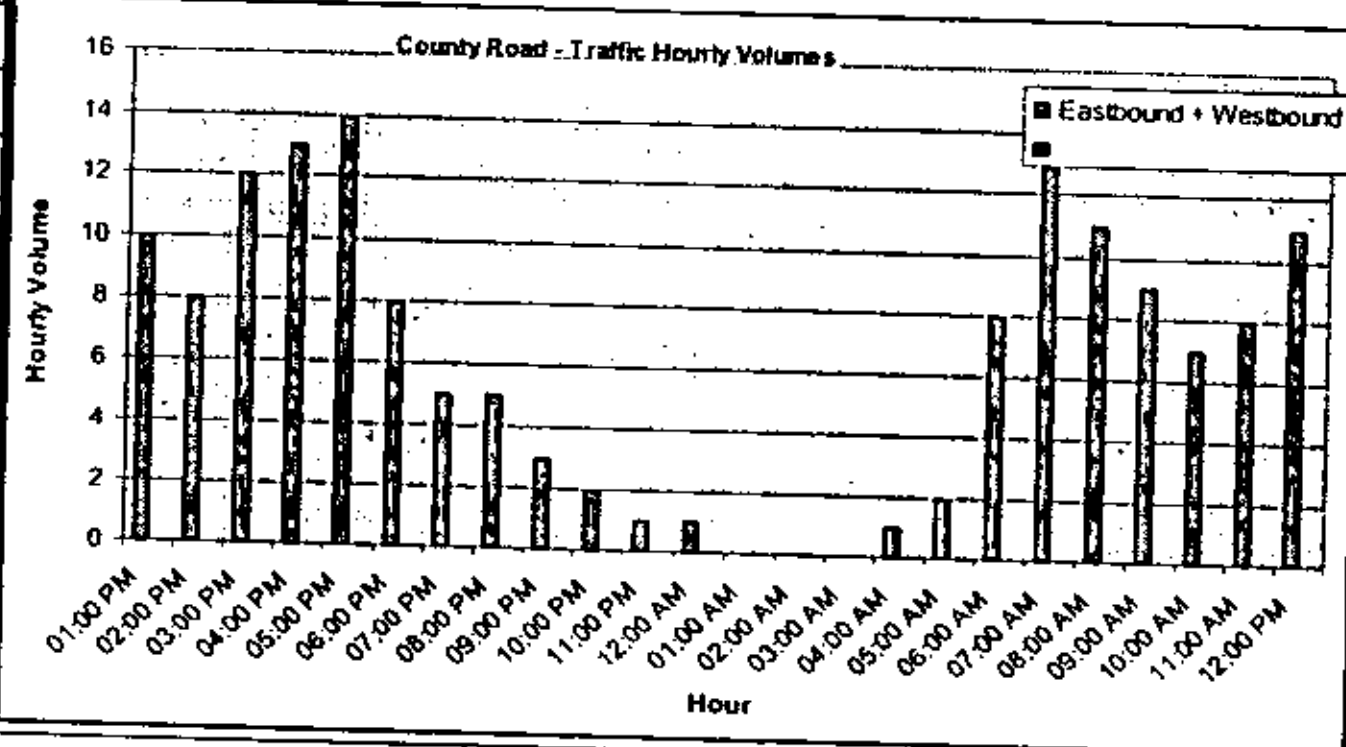


Table 5—Chart 5 24-Hour Traffic Counts
County Road 894, Just West of Deane Solomon Road

**TRIP GENERATION and
SITE TRAFFIC
PROJECTIONS**

The Trip Generation, an Informational Report, 2003, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential and commercial land uses of this development. These are reliable sources for this information and are universally used in the traffic engineering profession.

Using the selected trip generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip generation rates to the land use proposed for the development makes these calculations. Results of this calculation are summarized on Table 6, "Summary of Trip Generation," below.

These calculations indicate that approximately 26,067 vehicle trips (combined in and out) per average week-day are projected to be generated by the proposed residential and commercial land uses on this site. Of this total, approximately 1,274 vehicle trips are estimated during the traffic conditions of the adjacent street AM peak hour and approximately 2,442 vehicle trips are estimated during the traffic conditions of the adjacent street PM peak hour.

The data for the commercial land use has been adjusted for "internal trip capture" (i.e. multi-purpose trips within the site as opposed to new trips for each site land use).

These data have not been adjusted for "pass-by" trips (i.e. that portion of the site destined traffic likely to come from the existing adjacent street traffic stream) due to the land uses and location of the site. The majority of the vehicle trips destined for the site will not be in the existing traffic volumes.

Traffic Study

PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
PHASE 1							
PHASE 1A							
Single Family Residential (PA-1)	91 Units	210	871	17	51	58	34
Preserve / Botanical / Detention (PA-6)	4.85 Acres	n/a	0	0	0	0	0
Parks / Trails (PA-15)	7.18 Acres	411	11	0	0	0	0
PHASE 1B							
Thoroughfare Commercial (PA-14)*	200,000 sq. ft.	820	6,870	101	64	288	312
Preserve / Botanical / Detention (PA-9)	10.47 Acres	n/a	0	0	0	0	0
PHASE 1 (INCLUDES 1A AND 1B) SUB-TOTAL:			7,752	118	115	346	346
% OF TOTAL FOR PHASE 1 (INCLUDES 1A AND 1B) :			30%				
PHASE 2							
Residential Townhouses (PA-2)	73 Units	230	428	5	27	26	12
Preserve / Botanical / Detention (PA-6)	1.17 Acres	n/a	0	0	0	0	0
PHASE 2 SUB-TOTAL:			428	5	27	26	12
% OF TOTAL FOR PHASE 2:			2%				
PHASE 3							
PHASE 3A							
Preserve / Botanical / Detention (PA-6)	2.31 Acres	n/a	0	0	0	0	0
Civic Lawn (PA-10)	1.29 Acres	n/a	0	0	0	0	0
Mixed-Use District North (PA-11-East)*	260,000 sq. ft.	820 & 710	5,897	243	67	220	364
Preserve / Botanical / Detention (PA-9)	10.47 Acres	n/a	0	0	0	0	0
PHASE 3B							
Mixed-Use District North (PA-11-West)*	260,000 sq. ft.	820 & 710	5,897	243	67	220	364
Preserve / Botanical / Detention (PA-9)	10.47 Acres	n/a	0	0	0	0	0
PHASE 3 (INCLUDES 3A AND 3B) SUB-TOTAL:			11,794	486	134	440	728
% OF TOTAL FOR PHASE 3 (INCLUDES 3A AND 3B) :			45%				
PHASE 4							
Multi-Family Residential (PA-5)	172 Units	220	1,156	17	71	69	38
% OF TOTAL FOR PHASE 4:			4%				
PHASE 5							
Neighborhood Commercial (PA-13)*	15,000 sq. ft.	814	532	0	0	14	18
% OF TOTAL FOR PHASE 5:			2%				
PHASE 6							
Mixed-Use District South (PA-12)*	60,000 sq. ft.	820 & 710	1,364	56	16	51	77
% OF TOTAL FOR PHASE 6:			5%				
PHASE 7							
Courtyard Multi-Family Residential (PA-4)	313 Units	220	2,103	31	128	125	69
% OF TOTAL FOR PHASE 7:			8%				
PHASE 8							
Plaza Condominiums Residential (PA-3)	160 Units	230	938	11	59	56	27
% OF TOTAL FOR PHASE 8:			4%				
FULL BUILD-OUT TOTALS:			26,067	724	550	1127	1315
TOTAL FULL BUILD-OUT ENTERING + EXITING				1,274		2,442	
*These volumes adjusted to reflect 20% internal capture for the retail uses.							

Table 6 - Trip Generation Summary



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ENGINEERS, INC.

Residential traffic, as will be associated with this site, ordinarily does contribute to the adjacent street traffic conditions during the on street AM peak traffic hour and the PM peak traffic hour. Accordingly, both the AM and PM peak traffic periods of the adjacent streets in the immediate vicinity of the site are the traffic operating conditions which have warranted primary traffic analysis as a part of this study.

TRAFFIC VOLUME ASSIGNMENTS

Once projected traffic was estimated for the site, directional distributions were made to reflect the percent of left and right turns at the study intersections. Directional distribution percentages used in this report are shown on Figure 4, "Directional Distribution - Site Traffic."

The directional distribution percentages for site traffic have been equated to percentage turns for each movement at study intersections. These values are shown on:

- Figure 5, "Entering Traffic Percentage Turns"
- Figure 6, "Exiting Traffic Percentage Turns."

The projected traffic volumes shown on Figure 7, "Full Build-Out Site-Generated Traffic Volumes," result from applying the projected entering and exiting percentages shown on Figures 5 and 6 to the projected full build-out site-generated traffic summarized on Table 6, "Trip Generation Summary."

The existing traffic volumes have been increased with a five-year growth rate of eight percent per year. This growth rate is representative of recent traffic volume increases in the vicinity. The full development site-generated traffic volumes, shown on Figure 7 and existing background traffic volumes with five-year growth factor have been combined and the results are depicted on Figure 9, "Full Build-Out Site-Generated Traffic with Five-Year Growth Plus Existing Traffic Volumes."

Analysis was also done for development of Phase 1 (includes Phases 1A and 1B) as proposed and the Phase 1 site-generated traffic volumes are shown on Figure 9, "Phase 1 Site Generated Traffic Volumes." The volumes shown on Figure 9 have been combined with existing traffic volumes and the results are depicted on Figure 10, "Phase 1 Site-Generated Traffic Plus Existing Traffic Volumes."

Traffic volumes shown on Figures 8 and 10 are the values used in traffic volume assignments and capacity and level of service calculations conducted as a part of this study. The effect of existing background traffic (i.e. the adjacent street non-site traffic which exists) and background growth has thus been accounted for in this analysis.

CAPACITY and LEVEL OF SERVICE

Generally, the "capacity" of a street is a measure of its ability to accommodate a certain magnitude of moving vehicles. It is a rate as opposed to a quantity, measured in terms of vehicles per hour. More specifically, street capacity refers to the maximum number of vehicles that a street element (e.g. an intersection) can be expected to accommodate in a given time period under the prevailing roadway and traffic conditions.

Level of Service (LOS) ordinarily has a letter designation relative to the various operating characteristics, ranging from "A" as the highest quality to "F" representing considerable delay. The various Levels of Service are generally described as follows:



UN SIGNALIZED INTERSECTIONS		
LOS	Avg. Total Delay (sec./veh.)	Description
A	≤ 10	This LOS is a free flow condition, with vehicles acting nearly independently to one another. There is little or no delay.
B	>10 and <15	This LOS is slightly restrictive condition with short traffic delays. The presense of other vehicles is noticeable by the driver.
C	>15 and <25	This LOS is the design level that engineers strive for during the service life of the facility. LOS C results from an average delay. The traffic flow is stable, but more restrictive.
D	>25 and <35	This LOS is noticeably more restrictive, and there are long traffic delays. This LOS results in poor driver comfort and in greater accident probabilities.
E	>35 and <50	At this LOS, the intersection is operating at capacity with little or no gaps. There are very long traffic delays and unstable intersection operation.
F	>50	At this LOS, there are more vehicles arriving at the approach than can be discharged. Extreme delays will be encountered.

SIGNALIZED INTERSECTIONS		
LOS	Avg. Total Delay (sec./veh.)	Description
A	≤ 10	This LOS is a free flow condition, with vehicles acting nearly independently to one another. There is little or no delay.
B	>10 and ≤ 20	This LOS is slightly restrictive condition with short traffic delays. The presense of other vehicles is noticable by the driver.
C	>20 and ≤ 35	This LOS is the design level that engineers strive for during the service life of the facility. LOS C results from an average delay. The traffic flow is stable, but more restrictive.
D	>35 and ≤ 55	This LOS is noticeably more restrictive, and there are long traffic delays. This LOS results in poor driver comfort and in greater accident probabilities.
E	>55 and ≤ 80	At this LOS, the intersection is operating at capacity with little or no gaps. There are very long traffic delays and unstable intersection operation.
F	>80	At this LOS, there are more vehicles arriving at the approach than can be discharged. Extreme delays will be encountered.

LOS values that are reported for signalized intersections are based on overall control delay for the intersection.

Traffic Study

Traffic operational calculations were performed as a part of this study for traffic operating conditions of projected traffic. This analysis was performed using Synchro Version 6, 2003. This computer program has been proven to be reliable when used to analyze capacity and levels of traffic service under various operating conditions. Detailed calculations for all capacity calculations are included in the Appendix. The adjacent street AM and PM peak traffic periods were used for these calculations. Factors included in the analysis are as follows:

- Existing traffic patterns.
- Directional distribution of projected traffic volumes.
- Existing and proposed intersection geometry (including elements such as turn lanes, curb radii, etc.).
- Existing background traffic volumes, growth in background traffic volumes and projected site-generated volumes.
- Existing or proposed traffic control.

Capacity and LOS analysis was performed for the projected full build-out of this development with a five-year growth factor included in the projected traffic conditions for the following intersections:

- o Highway 112 and Park West Boulevard
- o Highway 112 and New Street A
- o Highway 112 and New Street B
- o Highway 112 and New Street D
- o Highway 112 and Realigned Deane Solomon Road
- o Park West Boulevard and New Street C
- o Park West Boulevard and Realigned Deane Solomon Road
- o Highway 112 and Van Asche Drive.

This analysis was performed for AM and PM peak hours projected traffic. For full build-out of the development with five-year growth projected traffic conditions, analysis was conducted with the roadway improvements and schematic lane geometry and recommended minimum turn lane



Traffic Study

lengths shown on Figure 11, "Recommended Schematic Lane Geometry," found as a part of the analysis of the study to be necessary for acceptable traffic operations. Additionally, capacity and LOS was performed for AM and PM peak hours for the projected Phase 1 development generated traffic plus existing traffic volumes.

CAPACITY ANALYSIS

Results and Level of Service Analysis -

Full Build-Out Projected Traffic with Five-Year Growth

Traffic volumes used for the projected traffic conditions for full build-out of this development with a five-year growth factor included are shown on Figure 8, "Full Build-Out Site-Generated Traffic with Five-Year Growth Plus Existing Traffic Volumes." The operating conditions projected to exist at these intersections are summarized in Table 7, "Level of Service Summary - Full Build Projected Traffic Conditions with Five-Year Growth."

PROJECTED TRAFFIC CONDITIONS FULL BUILD-OUT WITH 5-YEAR GROWTH			Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT	NB LT	NB TH	NB RT	SB LT	SB TH	SB RT	Overall Intersection
INTERSECTION																
PEAK HR			PEAK HOUR - LEVEL OF SERVICE													
AM	Highway 112 and Deane Solomon Road	SIGN		A	A	A		D		B						n/a
PM		SIGN		A	A	A		C		C						n/a
AM	Park West Boulevard and Deane Solomon Road	SIGN		B	B	A	A	A	A	A	A	A	A	A		n/a
PM		SIGN		B	B	B	A	A	A	A	A	A	A	A		n/a
AM	Highway 112 and New Street B	SIGN		A	A	A		C		C						n/a
PM		SIGN		A	B	A		F		C						n/a
AM	Highway 112 and Van Asche Drive	SIGNAL	C	A		B						C		B		B
PM		SIGNAL	C	A		B						B		B		B
AM	Park West Boulevard and New Street C	SIGN	A	A	A	A	B	A	B							n/a
PM		SIGN	A	A	A	A	E	B	D							n/a
AM	New Street D and New Street C	SIGN		B	B	A	A	A								n/a
PM		SIGN		C	C	A	A	A								n/a
AM	Highway 112 and New Street A	SIGN	E		B		A	A				A				n/a
PM		SIGN	F		C		B	A				A				n/a
AM	Highway 112 and Park West Boulevard	SIGNAL	C		B		A	A				B				B
PM		SIGNAL	D		C		D	A				D				D
AM	Highway 112 and New Street D	SIGN	F		C		B	A				A				n/a
PM		SIGN	F		F		C	A				A				n/a

Table 7 - Level of Service Summary - Full Build Projected Traffic Conditions with Five-Year Growth

Table 7 - Level of Service Summary - Full Build Projected Traffic Conditions with Five-Year Growth

Traffic Study

As indicated in Table 7, vehicle movements at the study intersections with capacity and LOS results demonstrating very long traffic delays (LOS "E" or "F") during the AM and/or PM peak hours projected traffic conditions at full build-out of the site are the following:

- ♦ The northbound left-turn vehicle movement on Highway 112 at New Street B with "Stop" sign control during the PM peak hour (LOS "F").
- ♦ The northbound thru / left-turn vehicle movement on New Street C at Park West Boulevard with "Stop" sign control during the PM peak hour (LOS "E").
- ♦ The eastbound left-turn movement on New Street A at Highway 112 with "Stop" sign control during the AM peak hour (LOS "E") and the PM peak hour (LOS "F").
- ♦ The eastbound left-turn movement on New Street D at Highway 112 with "Stop" sign control during the AM and PM peak hours (LOS "F").
- ♦ The eastbound right-turn movement on New Street "D" at Highway 112 with "Stop" sign control during the PM peak hour (LOS "F").

Delay is caused by the much higher volumes on Highway 112. Additionally, there is reserve capacity at the intersection of Highway 112 and West Park Boulevard (recommended for traffic signal control) allowing the option for vehicles turning left from New Street A and /or New Street D at Highway 112 to utilize the recommended traffic signal just at West Park Boulevard.

All other vehicle movements analyzed are expected to operate at LOS "D" or better during the AM and PM peak hours for full development projected traffic conditions with a five-year growth factor included.

Traffic Study

Results and Level of Service Analysis -

Projected Traffic with Development of Phase 1 (Includes 1A and 1B) Plus Existing Traffic Volumes

Capacity and LOS analysis was performed for the projected Phase 1 development projected traffic conditions. This analysis was performed for the following intersections for Phase 1 projected traffic conditions:

- o Highway 112 and Park West Boulevard
- o Highway 112 and New Street A
- o Highway 112 and New Street B
- o Highway 112 and New Street D
- o Highway 112 and Realigned Deane Solomon Road
- o Highway 112 and Van Asche Drive.

Traffic volumes used for the projected traffic conditions for Phase 1 development plus existing traffic volumes are shown on Figure 10, "Phase 1 Site-Generated Traffic Plus Existing Traffic Volumes." The operating conditions projected to exist at the study intersections are summarized in Table 8, "Level of Service Summary - Phase 1 Projected Traffic Conditions."

PROJECTED TRAFFIC CONDITIONS PHASE 1 (INCLUDES 1A & 1B) DEVELOPMENT		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT	NB LT	NB TH	NB RT	SB LT	SB TH	SB RT	Overall Intersection
INTERSECTION		PEAK HOUR - LEVEL OF SERVICE													
PEAK HR															
AM	Highway 112 and Deane Solomon Road	SIGN		A	A	A		B		A					n/a
PM		SIGN		A	A	A		C		B					n/a
AM	Highway 112 and New Street B	SIGN		A	A	A		B		B					n/a
PM		SIGN		A	A	A		B		B					n/a
AM	Highway 112 and Van Asche Drive	SIGNAL	C	A			B				B		B	A	
PM		SIGNAL	B	A			B				B		B	B	
AM	Highway 112 and New Street A	SIGN	C		B			A	A				A	n/a	
PM		SIGN	C		B			A	A				A	n/a	
AM	Highway 112 and Park West Boulevard	SIGNAL	D		C			A	A				A	A	
PM		SIGNAL	C		B			A	A				A	A	
AM	Highway 112 and New Street D	SIGN	C		B			A	A				A	n/a	
PM		SIGN	D		B			A	A				A	n/a	

Table 8 - Level of Service Summary - Phase 1 Projected Traffic Conditions

Traffic Study

As indicated in Table 8, all vehicle movements analyzed are expected to operate at LOS "D" or better during the AM and PM peak hours for Phase 1 development projected traffic conditions with recommended traffic signal control at the intersection of Highway 112 and Park West Boulevard and the intersection of Highway 112 and Van Asche Drive.

TRAFFIC SIGNAL WARRANTS ANALYSIS

In evaluating the need for a traffic signal, certain established warrants must be examined by a comprehensive investigation of traffic conditions and physical characteristics of the location. The decision to install a traffic signal at a particular location must be evaluated quantitatively relative to these warrants. Satisfaction of conditions for only one of the warrants, as specified, is required for signalization. These warrants, as specified in the Manual on Uniform Traffic Control Devices (MUTCD), are described in detail in the appendix of this report. They are summarized as follows:

- ◆ Warrant One: Eight-Hour Vehicular Volume
- ◆ Warrant Two: Four-Hour Vehicular Volume
- ◆ Warrant Three: Peak Hour
- ◆ Warrant Four: Pedestrian Volume
- ◆ Warrant Five: School Crossing
- ◆ Warrant Six: Coordinated Signal System
- ◆ Warrant Seven: Crash Experience
- ◆ Warrant Eight: Roadway Network

Traffic signal warrants analysis was made for projected traffic conditions for full build-out of this development with a five-year growth factor included and for Phase 1 (includes Phases 1A and 1B) plus existing traffic volumes for the following intersections:

- Highway 112 and Park West Boulevard
- Highway 112 and Van Asche Drive.



Signal Warrants Results

Highway 112 and Park West Boulevard

It was found that traffic signal warrants are projected to be met for the intersection of Highway 112 and Park West Boulevard at full build-out of this development with a five-year growth factor included and for projected traffic conditions associated with the Phase 1 development and with the eastbound right-turns factored out.

Volumes are projected to be sufficient at the intersection of Highway 112 and Park West Boulevard to satisfy Warrants 1A, 1B, 1AB, 2 and 3. Traffic signal control would be appropriate for this intersection to coincide with the development as proposed and the herein recommended roadway improvements. Full-build traffic signal warrants analysis results for the intersection of Highway 112 and Park West Boulevard are summarized in Table 9, "Traffic Signal Warrants Results - Highway 112 and Park West Boulevard - Projected Conditions with Five-Year Growth."

Volumes are also projected to be sufficient at the intersection of Highway 112 and Park West Boulevard to satisfy Warrants 1B, 2 and 3 with the development of Phase 1. Traffic signal control would be appropriate for this intersection to coincide with the development of Phase 1 as proposed and the herein recommended roadway improvements to that intersection. The Phase 1 traffic signal warrants analysis results for the intersection of Highway 112 and Park West Boulevard are summarized in Table 10, "Traffic Signal Warrants Results - Highway 112 and Park West Boulevard - Projected Conditions with Phase 1 Development."



Traffic Study

FINAL RESULTS: Traffic Signal Warrants Analysis									
Full-Build with 5-Yr Growth									
Projected Conditions									
Major St.: Highway 112									
Minor St.: Park West Blvd.									
Hour warrant was met:									
		VOLUME		COMB.		4 Hr.		Peak	
		350	525	280	420				
		105	52	84	41				
HOUR	SUM MAJOR	MAX. MINOR	1A	1B	1AB	2	3		
7:00	1390	111	1	1	1	1	1		
8:00	1067	87	0	1	1	1	1		
9:00	850	63	0	1	0	0	1		
10:00	1049	72	0	1	0	0	1		
11:00	1228	98	0	1	1	1	1		
12:00	1367	189	1	1	1	1	1		
13:00	1505	187	1	1	1	1	1		
14:00	1487	188	1	1	1	1	1		
15:00	1555	205	1	1	1	1	1		
16:00	1541	192	1	1	1	1	1		
17:00	1668	261	1	1	1	1	1		
18:00	1271	203	1	1	1	1	1		
19:00	1090	184	1	1	1	1	1		
20:00	922	170	1	1	1	1	1		
21:00	701	139	1	1	1	1	1		
			11	15	13	15	12		

Table 9
Traffic Signal Warrants Results
Highway 112 and
Park West Boulevard
Projected Conditions
with Five-Year Growth

This intersection SATISFIES the warrants for signalization as outlined in the "M.U.T.C.D."

FINAL RESULTS: Traffic Signal Warrants Analysis									
Phase 1 Development									
Projected Conditions									
Major St.: Highway 112									
Minor St.: Park West Blvd.									
Hour warrant was met:									
		VOLUME		COMB.		4 Hr.		Peak	
		350	525	280	420				
		105	52	84	41				
HOUR	SUM MAJOR	MAX. MINOR	1A	1B	1AB	2	3		
7:00	878	5	0	0	0	0	0		
8:00	837	10	0	0	0	0	0		
9:00	628	17	0	0	0	0	0		
10:00	745	18	0	0	0	0	0		
11:00	853	28	0	0	0	0	0		
12:00	900	70	0	1	0	0	1		
13:00	917	72	0	1	0	0	1		
14:00	907	70	0	1	0	0	1		
15:00	1014	76	0	1	0	0	1		
16:00	997	67	0	1	0	0	1		
17:00	962	96	0	1	1	1	1		
18:00	738	82	0	1	0	0	1		
19:00	597	77	0	1	0	0	1		
20:00	487	72	0	0	0	0	1		
21:00	336	61	0	0	0	0	0		
			0	8	1	7	2		

Table 10
Traffic Signal Warrants Results
Highway 112 and
Park West Boulevard
Projected Conditions
with Phase I Development

This intersection SATISFIES the warrants for signalization as outlined in the "M.U.T.C.D."

Highway 112 and Van Asche Drive

It was found that traffic signal warrants are projected to be met for the intersection of Highway 112 and Van Asche Drive at full build-out of this development with a five-year growth factor included and for projected traffic conditions associated with the Phase 1 development and with the westbound right-turns factored out.

Although only ten percent of the full-build site-generated traffic associated with this development is expected to utilize Van Asche Drive, existing traffic (with five-year growth) in combination with full-build traffic volumes are projected to be sufficient to satisfy Warrants 1A, 1B, 1AB, 2 and 3 with full build site development plus five-year growth. Traffic signal control would be appropriate for this intersection to coincide with full development as proposed and the herein recommended roadway improvements. The traffic signal warrants analysis results for the intersection of Van Asche Drive are summarized in Table 11, "Traffic Signal Warrants Results - Highway 112 and Van Asche Drive - Projected Conditions with Five-Year Growth."

Volumes are also projected to be sufficient at the intersection of Highway 112 and Van Asche Drive to satisfy Warrants 1B, 1AB and 2 with the development of Phase 1. The Phase 1 traffic signal warrants analysis results for the intersection of Highway 112 and Van Asche Drive are summarized in Table 12, "Traffic Signal Warrants Results - Highway 112 and Van Asche Drive - Projected Conditions with Phase 1 Development."

Traffic Study

FINAL RESULTS: Traffic Signal Warrants Analysis									
Full-Build with 5-Yr Growth									
Projected Conditions									
Major St.: Highway 112									
Minor St.: Van Asche Dr.									
Hour warrant was met:									
		VOLUME		COMB.		4 Hr.		Peak	
		350	525	280	420				
		105	52	84	41				
HOUR	SUM MAJOR	MAX. MINOR	1A	1B	1AB	2	3		
7:00	1122	160	1	1	1	1	1		
8:00	970	172	1	1	1	1	1		
9:00	659	114	1	1	1	1	1		
10:00	763	149	1	1	1	1	1		
11:00	891	148	1	1	1	1	1		
12:00	1049	173	1	1	1	1	1		
13:00	1072	175	1	1	1	1	1		
14:00	1044	184	1	1	1	1	1		
15:00	1126	200	1	1	1	1	1		
16:00	1190	213	1	1	1	1	1		
17:00	1193	211	1	1	1	1	1		
18:00	918	132	1	1	1	1	1		
19:00	772	126	1	1	1	1	1		
20:00	651	108	1	1	1	1	1		
21:00	503	79	0	0	0	0	0		
			14	14	14	14	12		

Table 11
Traffic Signal Warrants Results
Highway 112 and
Park West Boulevard
Projected Conditions
with Five-Year Growth

This intersection SATISFIES the warrants for signalization as outlined in the "M.U.T.C.D."

FINAL RESULTS: Traffic Signal Warrants Analysis									
Phase 1 Development									
Projected Conditions									
Major St.: Highway 112									
Minor St.: Van Asche Dr.									
Hour warrant was met:									
		VOLUME		COMB.		4 Hr.		Peak	
		350	525	280	420				
		105	52	84	41				
HOUR	SUM MAJOR	MAX. MINOR	1A	1B	1AB	2	3		
7:00	702	81	0	1	0	0	1		
8:00	583	96	0	1	1	1	0		
9:00	403	65	0	0	0	0	0		
10:00	464	86	0	0	1	1	0		
11:00	534	82	0	1	0	0	1		
12:00	597	96	0	1	1	1	1		
13:00	594	91	0	1	1	1	0		
14:00	580	99	0	1	1	1	0		
15:00	649	113	1	1	1	1	1		
16:00	697	118	1	1	1	1	1		
17:00	753	113	1	1	1	1	1		
18:00	491	66	0	0	0	0	1		
19:00	401	64	0	0	0	0	0		
20:00	330	55	0	0	0	0	0		
21:00	240	38	0	0	0	0	0		
			3	9	8	5	0		

Table 12
Traffic Signal Warrants Results
Highway 112 and
Park West Boulevard
Projected Conditions
with Phase 1 Development

This intersection SATISFIES the warrants for signalization as outlined in the "M.U.T.C.D."



PETERS & ASSOCIATES
ENGINEERS, INC.

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the site at full development are approximately 26,067 vehicle trips (combined in and out) per average weekday.
- The AM peak hour of the adjacent street (7:00 AM – 8:00 AM) and the PM peak hour of the adjacent street (5:00 PM – 6:00 PM) have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 1,274 additional vehicle trips will seek ingress and egress at the site during this adjacent street AM peak hour and approximately 2,442 additional vehicle trips will seek ingress and egress at the site during this adjacent street PM peak hour.
- Capacity and LOS analysis was performed for AM and PM peak hours for the projected full build-out of this development with a five-year growth factor included in the projected traffic conditions with the roadway improvements and schematic lane geometry and recommended minimum turn-lane lengths shown on Figure 11, "Recommended Schematic Lane Geometry." Additionally, capacity and LOS was performed for AM and PM peak hours for the projected Phase 1 development of the site. The results of this analysis are as follows:

Full Build-Out Projected Traffic with Five-Year Growth

- o Vehicle movements at the study intersections with capacity and LOS results demonstrating very long traffic delays (LOS "E" or "F") during the AM and/or PM peak hours projected traffic conditions at full build-out of the site are the following:
 - ♦ The northbound left-turn vehicle movement on Highway 112 at New Street B with "Stop" sign control during the PM peak hour (LOS "F").

Traffic Study

- The northbound thru / left-turn vehicle movement on New Street C at Park West Boulevard with "Stop" sign control during the PM peak hour (LOS "E").
- The eastbound left-turn movement on New Street A at Highway 112 with "Stop" sign control during the AM peak hour (LOS "E") and the PM peak hour (LOS "F").
- The eastbound left-turn movement on New Street D at Highway 112 with "Stop" sign control during the AM and PM peak hours (LOS "F").
- The eastbound right-turn movement on New Street "D" at Highway 112 with "Stop" sign control during the PM peak hour (LOS "F").
- Delay is caused by the much higher volumes on Highway 112. Additionally, there is reserve capacity at the intersection of Highway 112 and West Park Boulevard (recommended for traffic signal control) allowing the option for vehicles turning left from New Street A and /or New Street D at Highway 112 to utilize the recommended traffic signal just at West Park Boulevard.
- All other vehicle movements analyzed are expected to operate at LOS "D" or better during the AM and PM peak hours for full development projected traffic conditions with a five-year growth factor included.
- It was found that traffic signal warrants are projected to be met for the intersection of Highway 112 and Park West Boulevard at full build-out of the site plus a five-year growth factor included.



Traffic Study

- It was found that traffic signal warrants are projected to also be met for the intersection of Highway 112 and Van Asche Drive at full build-out of the site plus a five-year growth factor included.

Projected Traffic with Development of Phase 1 (Includes 1A and 1B) Plus Existing Traffic Volumes

- All vehicle movements analyzed are expected to operate at LOS "D" or better during the AM and PM peak hours for Phase 1 development projected traffic conditions with recommended traffic signal control at the intersection of Highway 112 and Park West Boulevard and the intersection of Highway 112 and Van Asche Drive.
- It was found that traffic signal warrants are projected to be met for the intersection of Highway 112 and Park West Boulevard with the development of Phase 1.
- It was found that traffic signal warrants are projected to also be met for the intersection of Highway 112 and Van Asche Drive with the development of Phase 1.
- It was found that traffic signal warrants are projected to be met for the intersection of Highway 112 and Park West Boulevard at full build-out of the site plus a five-year growth factor included.
- It was found that traffic signal warrants are projected to also be met for the intersection of Highway 112 and Van Asche Drive at full build-out of the site plus a five-year growth factor included.
- Planned as a part of this development, is the relocation of Deane Solomon Road to intersect Highway 112 slightly to the east of its existing location.

Traffic Study

Recommendations for improvements to accommodate the traffic associated with this development (plus five-year growth) have been identified. Staged implementation of overall improvements consistent with the individual phases of development as described have been examined and found to be reasonable and appropriate to mitigate traffic impacts associated with the development. Recommendations of this analysis are as follows:

- It is recommended that the roadway lane geometry, recommended turn-lane lengths and traffic signal control be constructed as shown on Figure 11, "Recommended Schematic Lane Geometry." These proposed roadway improvements should be constructed consistent with development phases as proposed.
- It is recommended that Park West Boulevard be constructed as boulevard type facility from Highway 112 to the first north/south street to the west, and then as a two-lane street with adjacent parallel parking from the first north/south street west of Highway 112 to west of New Street C (as depicted on the attached site plan). It is also recommended that Park West Boulevard be constructed as a three-lane roadway from just west of the parallel parking to Dean Solomon Road. Additionally, it is recommended that turn lanes with appropriate tapers be constructed on Park West Boulevard at intersections with cross streets as has been proposed.
- It is recommended that New Street C be constructed as a 28-foot wide roadway plus adjacent on-street parking within the proposed development. This street will connect with existing Truckers Lane to the south.
- It is recommended that, as a part of this development, Deane Solomon Road be realigned slightly to the east to intersect Highway 112 and be constructed as a 36-

foot wide roadway within the project limits.

- It is recommended that a fully actuated traffic signal be installed at the Highway 112 and Park West Boulevard intersection coincident with the site development.
- It is recommended that this developer participate in the cost of construction of a fully actuated traffic signal at the Highway 112 and Van Asche Drive intersection. (Full-build site-generated traffic is calculated to be approximately 36 percent of the projected total volume on Van Asche Drive.)

The full extent of improvements to mitigate traffic impacts associated with this development for full-build conditions is shown on Figure 11, "Recommended Schematic Lane Geometry."

For the purpose of Phase 1 development, the following improvements should be made:

- A fully actuated traffic signal be installed at the Highway 112 and Park West Boulevard intersection.
- This developer should participate in the cost of construction of a fully actuated traffic signal at the Highway 112 and Van Asche Drive intersection.
- It is recommended that, as a part of this development, Deane Solomon Road be realigned slightly to the east to intersect Highway 112 and be constructed as a 36-foot wide roadway within the project limits.
- Improvements on Highway 112 at the following locations as a part of Phase 1 development should be the same as those called for as a part of full-build conditions (see Figure 11, "Recommended Schematic Lane Geometry,":
 - o Highway 112 and Park West Boulevard
 - o Highway 112 and New Street A



Traffic Study

- o Highway 112 and New Street B
- o Highway 112 and New Street D
- o Highway 112 and Deane Solomon Road.

Roadway improvements and traffic signal designs on Highway 112, in the vicinity of the site, must conform to AHTD and City of Fayetteville standards and will require approval by both AHTD and the City.

Roadway improvements to all other roadways, in the vicinity of the site, must conform to City of Fayetteville standards and will require approval by the City.



FAYETTEVILLE HOUSING AUTHORITY

#1 NORTH SCHOOL AVE.
FAYETTEVILLE, AR. 72701-5928
PH: (501) 521-3850 FAX (501) 442-6771

RECEIVED

JAN 09 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

January 6, 2006

Honorable Mayor Dan Coody
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Coody,

The Fayetteville Housing Authority Board of Commisssoners met in regular session on December 20, 2005 and re-elected Betty Turner to the Board of Commissioners. Her five year term will run to December 28, 2010.

We would appreciate the City Board's confirmation of this election at their next regular meeting.

Sincerely yours,


Fredia Sawin
Executive Director

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville, Arkansas
City Council
Meeting Minutes
November 15, 2005**

A meeting of the Fayetteville City Council was held on November 15, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Lioneld Jordan called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Ferrell, Lucas, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Mayor Coody and Alderman Rhoads

Pledge of Allegiance

A presentation on STOPS was given by students from the Woodland Junior High Littering Program.

CONSENT:

Approval of the October 4, 2005 City Council Meeting Minutes.

Approved

Little Rock Equipment Sales – Trailer Mounted Crack Sealer: A resolution awarding Bid #05-75 to Little Rock Equipment Sales for the purchase of one (1) Trailer-Mounted Crack Sealer in the amount of \$40,992.00 for use by the Transportation Division; and approving a budget adjustment to move funds to the Fleet Expense Account.

Resolution 215-05 as Recorded in the Office of the City Clerk.

Barloworld Freightliner of Springdale – 4 Dump Trucks: A resolution awarding Bid #05-73 to Barloworld Freightliner of Springdale for the purchase of four (4) Tandem Axle Dump Trucks in the amount of \$360,932.00 for use by the Transportation Division for the In-house Trails Program; and approving a budget adjustment to move funds to the Fleet Expense Account.

This item was removed from Consent and placed on New Business # 1.

Baird, Kurtz & Dobson, LLP (BKD) Contract: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in the amount of \$59,000.00 to provide independent audit services to the City of Fayetteville.

Resolution 216-05 as Recorded in the Office of the City Clerk.

LEECO, Inc. Bid Award – SCBA Cylinder Refill System: A resolution awarding Bid # 05-77 to LEECO, Inc. for the purchase of one (1) SCBA Cylinder Refill System in the amount of \$41,487.13 for use by the Fayetteville Fire Department; and approving a budget adjustment in the amount of \$41,488.

Resolution 217-05 as Recorded in the Office of the City Clerk.

2005 Vehicle and Machine Fuel: A resolution approving a budget adjustment in the amount of \$54,000.00 for vehicle and machine fuel & maintenance costs for 2005.

Resolution 218-05 as Recorded in the Office of the City Clerk.

Manage Wastewater Collection and Treatment Activities: A resolution to manage Wastewater Collection and Treatment Activities under Section 208 of the Clean Water Act.

Resolution 219-05 as Recorded in the Office of the City Clerk.

UATV Contract – Fayetteville Education Channel: A resolution authorizing the Mayor and the City Clerk to execute an agreement between the City of Fayetteville and the University of Arkansas, UATV to operate the Fayetteville Education Channel for a two-year period.

Resolution 220-05 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve the Consent Agenda with Item #3 Barloworld Freightliner of Springdale – 4 Dump Trucks removed and added to New Business. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

UNFINISHED BUSINESS:

ANX 05-1728 Zaccanti: An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres. *This ordinance was left on the Second Reading at the November 1, 2005 City Council Meeting.*

Alderman Reynolds moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. **Alderman Jordan, Reynolds, Thiel, Marr, Ferrell and Lucas** voting yes. **Alderman Cook** voting no. **Alderman Rhoads** was absent.

Jeremy Pate, Director of Current Planning: The applicant met with some of the neighborhood. I would also remind the council I don't believe that the applicant is interested in annexation if the rezoning is not something that the council would like to see.

Kit Williams, City Attorney: I would suggest that you indicate to the applicant your thoughts on rezoning before you vote on the annexation. If you talk about both of them that would give the applicant an opportunity to withdraw the annexation if it looked like the majority of the council did not want to rezone.

Alderman Jordan: When I first saw this development I was concerned about the fire response time, but since the council and their wisdom has decided to pass impact fees, that will provide funds for fire and police in that area, I don't have the concerns that I once had. I know that some of the neighborhood met with Charlie Solan and me over the streets in that area. I think there were concerns about the connectivity going through their neighborhood, but I think that would be something that we can address later on.

Alderman Lucas: I agree with Alderman Jordan, I know he met with the neighbors and I know that there is a real concern about traffic going through Gypsum. I went out there and the property does not go down to Crystal Drive, this is the only street right now that's on the west side of it. I think that's something that the Street Committee and the Planning Commission need to work out. This is an area that's surrounded by the City on three sides, so I think it is important that is brought into the City. It is compatible with the neighborhoods. So, I hope that when it comes through, that the committees can work out something between the neighbors and the developer about streets. I am in favor of this.

Alderman Cook: I will make my usual comment about annexation, it's never anything personal about the applicants, and I just don't believe that annexation is a good thing especially after our last presentation from staff. The numbers show that capital costs are overwhelmingly strapping us and especially because of the growth we have on the edge of the City. I appreciate that we have impact fees to try and collect some of those costs but honestly I don't think it collects the full costs. I am not going to support annexation.

Alderman Thiel: Usually I do support annexation. The reason is it assures that the houses come in according to our standards and inspected by our inspectors. We get impact fees and the parkland fees. As far as zoning if you are going to annex it, which it would make sense to annex it, then I would certainly support the RSF-4 zoning. I wouldn't want to leave it R/A with that adjoining area.

Alderman Ferrell: I concur with Alderman Lucas about it being surrounded on three sides. I met Mr. Zaccanti, this fellow has lived out there all his adult life and I think he would like to retire and sell some of this property. I think that the plan for development, they've tried to be as flexible as possible to meet every expectation that they can. I would strongly support.

Alderman Reynolds: I will support the rezoning and the annexation because of a health and safety factor and the only way we are going to correct this problem in this city is through our impact fees.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passes 6-1. Alderman Reynolds, Thiel, Marr, Rhoads, Lucas, and Jordan voting yes. Alderman Cook voting no. Alderman Rhoads was absent.

Ordinance 4793 as Recorded in the Office of the City Clerk.

Planning Commission Appeal - RZN 05-1729 Zaccanti: An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the Second Reading at the November 1, 2005 City Council Meeting.*

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Mary Bassett: I appreciate the opportunity to speak with the council. My father, Al Zaccanti, owns the property. We appreciate your support for annexation and rezoning. The line for the 60 acres will be a straight cut on all three sides surrounded by RSF-4. It's very important for it to be rezoned and not be agriculture. We appreciate your support in this annexation and rezoning.

Alderman Marr: I would like for you to expand on your comment about connectivity because I want to make sure that we are going to get connectivity on this piece of property.

Charlie Sloan, Developer: We were concerned about the connectivity, there are two collecting streets that go through our property. One of them is Raven which will connect us down to Crystal Springs Road, and the other one is Gypsum Road. There is another project north of Gypsum that's coming through, we would like to propose making that a collector street and tying it into our project. That's something we will have to get with Engineering on, but we did talk with the neighbors and tried to show a couple different variations as far a traffic flow through the property but yet again if the school it buying this property which it looks like they are to the east of us, we need to be able to flow through our property where it would be safe for the neighborhood. That's what we would like to do and possibly go ahead and build that as a collector, anticipating the flow of traffic build that as three lanes if necessary.

Alderman Thiel: The property doesn't come down to Crystal, does it?

Charlie Sloan: Yes, it will connect through Raven. We are hoping in the future with the school and Deane Solomon being rebuilt, that will let the neighborhoods go back to the east instead of just having to come onto Salem Road. It would be a great time to fix the streets now instead of in the future. Let's just do it now that's all that we were trying to propose.

Alderman Jordan: I didn't make any personal guarantees to the neighborhood that this could happen, it was just something that would be discussed.

Charlie Sloan: It is something that Mr. Jordan brought forward that would have to go to the Street Committee. You would have a couple of different opinions that we could work with. Right now we are just a blank piece of paper. We can move anything anywhere and we are willing to because it benefits us in the long run.

Alderman Thiel stated that she is in favor of connectivity.

Charlie Sloan: We will be connected to other neighborhoods, it is just making sure of the traffic flows. We have seven different connections out of our property, it's just trying to flow the traffic through our property, that's what we will be facing and our neighbors will be facing is another high school subdivision. We just want to move people through there as safe as possible. We need connectivity through that neighborhood, and that's the only way we're going to flow. It is a connective street not thoroughfare.

Alderman Marr stated that he wants to make sure that we don't end up with what we are dealing with in Wilson Park and some of the areas that we don't have north, south, east, and west connectivity today because it wasn't planned before the land was developed.

Charlie Sloan: Well that's what we are trying to do is to look at the over all picture. That is the reason we are trying to look at what is coming up in the future.

Alderman Reynolds asked if we are still talking about a fire station in that area and if Mr. Hoskins is still going to donate property for a fire station.

Charlie Sloan: You will have to talk with Mr. Hoskins about that, I don't really know.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Ordinance 4794 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

This item was removed from Consent:

Barloworld Freightliner of Springdale – 4 Dump Trucks: A resolution awarding Bid #05-73 to Barloworld Freightliner of Springdale for the purchase of four (4) Tandem Axle Dump Trucks

in the amount of \$360,932.00 for use by the Transportation Division for the In-house Trails Program; and approving a budget adjustment to move funds to the Fleet Expense Account.

Alderman Ferrell: I am on the Equipment Committee and I was not for this. I voted in the minority but I had some correspondence from a citizen about this. I figured during the public comment that citizen would be here tonight and that's why I asked that this be put under new business.

Alderman Lucas asked Alderman Ferrell why he voted against this.

Alderman Ferrell: At a time when we don't have any money and all of a sudden we come up with a million dollars for this special trails project and that's why I voted against it.

Alderman Lucas: It is a budgetary reason. It is not because of the people in the contract?

Alderman Ferrell: No.

Alderman Lucas: I have had some calls about this. We are so behind on streets and this is something that comes out of the CIP fund, so I am glad that he pulled it off of consent. It bothers me, after I received some calls, I got to thinking about it and here we are spending \$360,932 when we have so many tight things that we need in the CIP, streets and Ruppel Road. That's what concerns me.

Alderman Cook: I have received some calls that are different than that. Some people are concerned that if they support the trails program while their excited about an In-house program, their concern is spending the money, at this point, for equipment and other items when we lack some areas of right-of-way. Especially, if the cost of land keeps going up, if we are going to support the trails program, I think that we should spend it on trails right-of-way at this point. If we buy this equipment and we start laying asphalt at some point they are going to catch up with the right-of-way acquisition and then we are going to be setting on it. I've had a few calls along those lines.

Alderman Lucas stated that is a very good point.

Alderman Marr: When we had this discussion at the Equipment Committee meeting, we have already approved the additional hiring of individuals to administer this program and that would kind of be like hiring someone to do carpentry and not giving them tools. So I think that we're talking about the expense of these projects that we need to be able to administer. If we get ahead of where we are, I thought I understood that we could use the employees elsewhere within our Transportation Division for other projects, so maybe the staff could speak to that.

Terry Gulley, Transportation Manager: Why don't I give you a little update on where our in-house pavement program is for the year and then I will go into what we've done with the trails program since we started this eight weeks ago. The in-house pavement program since 2003 we've overlaid twelve miles of streets. Last year we did about 13½. This year currently we've laid 18.6 miles and we've used all our allotted funds for that program. Our goal was 17½ miles and we've exceeded that. We're equal to or ahead of schedule on our in-house paving program. The funding put in our 2006 Budget both the CIP and our general budget is set up to continue

right at 18 miles for next year. If it stays at that level, then we are going to stay at or be ahead of where we are. So that's where we are on the pavement program. The pavement program is not really going to lag due to this if the budget approved is submitted right now in the latest form. The trails program itself we started about eight weeks ago. We have moved the trail onto our property off of what was Lindsey's property. We moved that and put in just over one thousand feet of new trail there, we did that in four weeks. We did that with the help of some of the existing equipment we have, but it was tight and the paving program had to share with the trails program for dump trucks, pavers and the time for that. We made that work because it was a small project and it just happened to fit in a window between paving jobs on the streets and we were ahead for this particular year. So, we've got approximately three thousand feet of new trails done.

Terry Gulley gave the Council an update of the projects that have been completed this year.

The dump trucks are needed because we can't continue to draw from the in-house pavement programs dump trucks all the time, or there is going to lack, so they're necessary. We're pushing on fast and hard and we are right on schedule to complete what we stood up here and said we were going to do.

Alderman Marr: If we get behind on right-of-way and aren't able to lay trails, will this equipment be able to be utilized in other areas of the city or will it be sitting idle?

Terry Gulley: There is a great need for dump trucks. We currently have seven. There is never one that is sitting still for one day. When we are paving, we probably use anywhere from three to at least eight lease trucks in addition to the four that are assigned to the paving crew. So we are leasing trucks all the time to haul the asphalt for us. We've got a use for them.

Alderman Marr: I support trails, there's a reason that the priorities were set the way they are and that we need to be working as close to the order of that priority as we can. Otherwise you are going to find support falling in the future.

Terry Gulley: We are doing that. We are looking at the top ten. We will do the highest ranked projects, where we have all the pieces and physically do those projects.

Alderman Lucas: Then you won't need to request equipment in 2006?

Terry Gulley: No. I think the only equipment we are requesting is a replacement for existing equipment that we already have. One thing we are going to ask for is a street saw, but we are turning in another piece of equipment and using that money to purchase that saw. Other than that, there is the curb machine, which is in the CIP project and that's a piece of equipment that has the potential to save us a lot of money. The price of the machine is \$195,000.00 but I think we can save \$250,000.00 a year. We are going to use existing personal to run the machine. Over the course of five years I think we will be in the neighborhood of \$500,000 to \$700,000 ahead. The curb machine is the only thing that I've got in the CIP that I've requested and I think it's probably the greatest money savings.

Alderman Reynolds: Because you have to purchase four dump trucks, you are not asking for four additional personal?

Terry Gulley: No. That was approved when we hired the trails staff of nine back in the summer. Those people will be able to operate this equipment. There will be no additional personnel needed.

Alderman Reynolds: I know that this Council wants to balance the budget this year and we are going to be looking for places to cut some money. We have bought the pavers, the roller and we have already hired the people to do this project. If you don't want to spend the money to buy four trucks, maybe you might want to think about two trucks. He's already got the personnel. The equipment committee approved the four trucks because everything's in place.

Terry Gulley: Regarding two trucks versus four it's going to take those vehicles once we roll into next year and we are trying to do five miles of trail. So if we re going to cut it, just remember we can't do all that I promised from the beginning.

Alderman Jordan: I think the man needs four trucks and the Equipment Committee approved it.

Alderman Thiel: Was it unanimous?

Alderman Jordan: It was three to one.

David Bragg, Fleet Operations Superintendent: I just want to clarify something. As a part of this there is an asphalt roller that's part of this whole thing. We just want you to be aware when you vote on this that in another month we will be coming back with this other piece of equipment. That piece is coming forward but it is another necessary part of this program.

Alderman Reynolds moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed 6-1. Alderman Jordan, Reynolds, Thiel, Cook, Marr and Lucas voting yes. Alderman Ferrell voting no. Alderman Rhoads was absent.

Resolution 221-05 as Recorded in the Office of the City Clerk.

2006-2010 Proposed CIP Adoption: A resolution adopting the proposed 2006-2010 (CIP) Capital Improvements Program.

Kevin Springer, Budget Manager: The CIP information that I handed out summarizes the \$95.6 million in capital improvement requests over the next five years, by funding source. In addition the information lists the \$18.4 million in individual capital project requests that are contained in the 2006 proposed budget.

Alderman Marr: What is the Public Safety Expansion bond?

Kevin Springer: That is a proposed bond issue in 2007 for the Tyson Complex building we've purchased. We are still in the works of trying to get together a plan and we are looking at that in 2007. The CIP is a listing of all the capital projects the city wishes to do over the next five years. Even though it's a five year document, we only incorporate the 2006 projects into the budget

document and then what will happen is next year we will look at the 2007 projects and we will incorporate those into the 2007 budget document and then we will start over on the CIP process and complete another five year plan. The various different committees' have looked at different projects that are contained in the whole capital plan

Alderman Lucas: Why is the in-house pavement improvements not included in the street improvements.

Kevin Springer: When we are talking about street improvements, we are talking about contracted jobs that our Engineering Division is in charge of, where they contract the construction of the street. Transportation improvements fall under the purview of Terry Gulley and the Transportation Division. I know that street improvements and transportation are all the same type.

Alderman Lucas asked if Terry Gulley is over Transportation and who is over streets?

Kevin Springer: Streets are the projects that the Engineering Division is responsible for. Those are the ones that they contract out with Engineering firms and construction companies to over lay streets. Terry handles all the in-house work.

Alderman Thiel: The street improvements that will be bid out, those were approved by the Street Committee?

Kevin Springer: I think so or at least they've looked at them. These were the proposals that were presented to the Street Committee.

Kit Williams said we haven't approved them.

Kevin Springer: This is a list that the Street Committee reviewed and approved.

A discussion followed on street improvement projects.

Ron Petrie, City Engineer: At the last Street Committee meeting we had a lot of discussion about most of these items going for engineering studies. There is not a lot of money to actually do the street work. A lot of this is in anticipation that the street bond issue will be approved. If that bond issue is not approved we will want to revisit this CIP almost immediately in 2006.

Alderman Lucas moved to table this resolution to the December 6, 2005 City Council meeting. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

This item was tabled to the December 6, 2005 City Council meeting.

2006 Proposed Annual Budget Adoption: A resolution adopting the proposed 2006 Annual Budget and Work Program.

Kevin Springer stated that on November 8, 2006 city staff presented the 2006 proposed budget to the City Council. Several work sessions were scheduled at this meeting. Currently, staff is working this week on a list of items that would eliminate the use of reserves for General Fund. This list will be distributed tomorrow.

Alderman Marr: In the budget that you are reducing, does it still have the 12.5 public safety employees in it.

Kevin Springer: Yes we are actually giving various options as far as phasing in people and/or eliminating people.

Alderman Reynolds moved to table this resolution to the December 6, 2005 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

This item was tabled to the December 6, 2005 City Council meeting.

ADM 05-1794 College Avenue Right of Way Reduction: A resolution to vary the right-of-way dedication requirement for 620 N. College Avenue to promote redevelopment of this property and prevent undue hardship to the developer.

Jeremy Pate: This resolution is to request a variance of right-of-way dedication required on College Avenue for a specific address located at 620 N. College. The request specifically is to reduce it from the currently required 55 feet from center line. This is a principal arterial. We have had discussions about College Avenue in general along this area and staff is developing some conceptual drawings to be presented at the Street Committee meeting regarding an overall Master Street Plan amendment. This is a request for lesser dedication of right-of-way instead of the required 55 feet from center line, the applicant would like to dedicate a minimum of 38 feet from center line. I believe currently the resolution reads 30, I did ask the applicant and 38 feet would work. What this would accommodate is there is an existing building on the property; they would like to remodel this building. If they are required to dedicate 110 feet of right-of-way, as you can see in the graphic I passed out as well as the 50 foot building setback that building would more than likely have to be removed. The applicant has pursued a couple of different options. The Board of Adjustments allowed for variances to build up to the Master Street Plan right-of-way. The applicant also went before the Planning Commission and the Street Committee to look at reducing the right-of-way requirement for this particular project. As you can see, along College Ave there are a number of structures that would have to be demolished or removed or parts of them removed in order for them to redevelop this area. I did put together a list of projects that I know of currently that are in process or have already been approved for right-of-way reductions in this stretch. There are several structures as well that have recently been remodeled, they did not have to require a reduction of right-of-way because they weren't expanding, they stayed within their existing foot print or had minor modifications. Essentially, this is again a request for lesser dedication of right-of-way due to the hard ship imposed upon the applicant by the existing Master Street Plan. Staff and the Planning Commission recommended approval. The Street Committee actually recommended to bring this forward to the full Planning Commission without a formal recommendation but for discussion at this level.

Alderman Ferrell: After we deal with this you all are going to take a look at bringing something to us on the possibility of meeting that Master Street Plan?

Jeremy Pate: We are already doing that. We have developed one concept sketch, we are working on several others and will present the options to the Street Committee. So we will present various options for you to look at.

Alderman Ferrell: Thank you. I think that you can get to a point of diminishing returns if everything has to be handled as an exception rather than making a policy. The Planning Commission unanimously recommended this and I support it.

Kit Williams: I suggest that you look at the one that I drafted. The city council may vary the right-of-way dedication requirements, imposed here in the event of an undo hard ship, which is exactly what I think that we have in this particular case. This code section was composed in order to handle these kinds of situations. I do agree with Alderman Ferrell, that we need to look at this whole section of road and try to decide what actually a more realistic right-of-way requirement is. I can also tell you that we would not be able to require demolition of buildings, but on the other hand we still need to be realistic here. A lot of times these building were built and they were far enough away from the road at one time and the road has moved to them. I think it's very realistic to look at this and decide in the future about this whole strip of road to see what kind of right-of-way we really need.

Alderman Thiel: The 38 feet is in line with what is coming forward as far as the street widening or reducing the street right-of-way?

Jeremy Pate: Yes, the 38 feet would accommodate what they are looking to develop.

Alderman Thiel: Is it in line with what we have done in the past?

Jeremy Pate: Correct. The Mountain Inn will actually be requesting 30 foot right-of-way in front of their building, which is obviously less than the 38 feet. The Planning Commission and staff recommend most of the right-of-way along College Avenue from Rock to North Street 95% of it is 60 feet existing. That's what most of the building set backs show which would accommodate the existing structures but no expansion. I believe that's why in a lot of cases we have not seen much expansion of those structures because it would take a process of coming before the Board of Adjustment, Planning Commission, and City Council to get there. That's why we did present as part of the Master Street Plan amendments, the adoption of that different street standard and we will be presenting that to the Street Committee and City Council soon.

Alderman Lucas: If we have to make an amendment or change it. What do we have to do to get this one approved?

Kit Williams: You will actually have to choose which one you want to do, because they were both presented in the packet to you.

Alderman Reynolds: Is there someway that we are ever going to put a turn lane in that one or two blocks to handle that turn traffic.

Jeremy Pate: That is one of the options that we are looking at to present to the Street Committee. There are some existing constraints, the retaining wall that the highway department put up. I believe that in a lot of these instances, it can actually function within the existing right-of-way or instead of the entire stretch being one large right-of-way we could look at accommodating at intersections. That's some of the options that we will be presenting to you.

Alderman Marr: I would be much supportive of the 38 feet for that very reason, because that is one of the issues that we get a lot of comments on.

Alderman Cook: I fully support the idea of this development because that building is the kind of development we want to see but that is definitely one of the most dangerous stretches of 71 right there.

Alderman Lucas moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 222-05 as Recorded in the Office of the City Clerk.

Planning Commission Appeal of PPL 05-1733 West Haven Subdivision:

Alderman Jordan: I brought this forward. This is a situation where there was a decision by the Planning Commission that the individuals in the area felt as though they did not get to present a Power Point that they would like to present.

Kit Williams: When looking at a review of any plan of any large scale development or a preliminary plat, the code is very specific on what can be considered when turning it down. Basically, the only one that might be relevant in this case is the fourth one. The fourth one says, the proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as high traffic volume, topography or the nature of the traffic pattern. I am pretty sure that all the other five conditions have been adequately and conclusively met by the developer as found by the Planning Commission. Of course the Planning Commission did not turn this down for traffic concerns either, but that is something that you can consider.

Alderman Jordan: I know that the other aldermen were contacted about this situation. I noticed that this is in our planning area and they did not have representation over there because it is in the planning area. So we felt that since it is in the Ward 4 area, Alderman Lucas and I felt that we would appeal it. Not necessarily that we are in agreement, but we will give the people their say and their day.

Jeremy Pate: You touched on one of the points that I was going to mention. This is in the planning area, as you know the Planning Commission does approve/deny subdivisions that are located in Fayetteville's jurisdictional planning area, which is essentially an area outside the city limits. Subdivision regulations are relatively the only aspect of Planning Commission approval that we do have within the planning area, land use is not one of those. The property contains approximately 50 acres, it is located west of Fayetteville, off Wheeler Road, north of Double

Tree Estates, this original subdivision actually called West Haven, was approved by the Planning Commission back in 1998. It was not constructed at that time and did expire. Therefore the applicant was required to resubmit plans. They resubmitted almost the exact same plans. The proposal was for 45 single-family lots, similar in size to the subdivision directly to the south, quite a bit smaller than undeveloped property to the north and west. The Planning Commission did vote in October 4-3 in favor of the project. There were concerns voiced by the neighbors. You have a series of drawing in your packet additionally I have one that has been submitted by a resident of Double Tree Estates, I'd like to pass out to you. She asked me to pass this out as one of the potential options as well.

Ray Haefele, 2650 N. Stacey Lane, Double Tree Estates: I am coming before the council as the sole presenter of our field comments. I would also like to state upfront that we are not opposed to the West Haven Development, we are here to participate in making the two developments a win-win for everyone concerned. Our concern is based on the hazard that comes with increased traffic flow. Double Tree has high pedestrian volume, where streets are used for walk ways since there is no pedestrian alternative, such a side walks. To add to this dangerous situation, there are no street lights in Double Tree, and much of our traffic includes walker and joggers early in the morning and in the evening. For these facts as a back drop, let me identify other safety factors that need to be considered. Under the approved Preliminary Plat, Stacey Lane is too straight and long which will encourage speed. Entry of Timber View at Stacey is a dangerous location near the point of highest child and pedestrian traffic. These two facts alone create a dangerous traffic situation. I do appreciate the opportunity to make our comments with the Power Point.

There was a Power Point Presentation given by Ray Haefele on the West Haven Subdivision.

Alderman Thiel: One of the things you want to do in this revised plan is to eliminate the center section or that upper street so that you do have that section right there. Move that over or basically eliminate it.

Ray Haefele: Yes.

A discussion followed on the lay out of the road and the proposed subdivision.

Alderman Marr: I am not real sympathetic when connectivity is shown on an approved plat, and I am pretty sympathetic when its not shown and we try to add it. My question is in the Double Springs Subdivision, where were the connectivity points and what I am hearing is that this one that they are speaking about, that comes further south on Stacey was not designated in that plat.

Jeremy Pate stated that I don't believe so. In all the plats that I have seen recorded at the county level and approved by the Planning Commission, the actual stub-outs were built to access other properties, where shown. This is a stub-out and will be connecting to additional development. This one, by circumstance, happens to be adjacent to the West Haven Property. The reason staff recommended the applicant look at connectivity is because of the longer cul-de-sac, all the way from North Street that goes east to west would have required two things, a wavier by the Planning Commission additionally in the Fire Department, it would require special acceptance by the Fire Marshall because State Code has a maximum allowance of 750 feet. Obviously if

we could accommodate a project and meet the state fire code and our codes as dictated in our Unified Development Code that is what we are going to recommend. With the second option that has been presented, it will reduce both of those.

Alderman Marr: That takes away the variance of the Planning Commission or the requirement from the Fire Department because you have connectivity in the middle that cuts that in half.

Jeremy Pate: Right. It reduces it to right around 750 feet.

Alderman Marr: Thank you.

Alderman Lucas: This property is against Stacey, they are not coming through Double Trees Estate are they?

Ray Haefele: There is a little strip that is connected to Stacey. It certainly comes as a surprise when you move into the neighborhood and a stub-out is not indicated. That's our concern. But more importantly it's really traffic. I mean you can see the volume of traffic that would come down in that area and drop down at Stacey and more importantly what it would do to the Double Tree Estates Drive.

Alderman Lucas: At that intersection they would have to stop before they came onto Stacey. This other way there is not a stop sign.

Ray Haefele: This other way right there is a cul-de-sac.

Alderman Lucas: I think in the original one what was approved by the Planning Commission there was no stop sign or anything there.

Ray Haefele: You would hope there would be. The speed of the traffic coming down off of Timber View is not our concern; it's the volume of traffic.

Alderman Lucas: It is out side the city we didn't require street lights.

Alderman Marr: Obviously you can't do this design unless you have that road going across. Can we have the developer or whoever speaks to that particular issue, because if that doesn't happen or there is not a way to shorten that cul-de-sac then we have a safety issue with the Fire Department.

Hugh Earnest, representing Hometown Development: Our position is very simple, we have worked repeatedly and consistently with the neighborhood, there have been several neighborhood meetings, this compromise is certainly acceptable to us. It seems to meet our objectives in developing the area. We certainly understand the concern with respect to slowing down the speed on Stacey and we have discussed this extensively and internally, this is acceptable to us.

As I understand and of course we are dealing with county regulations that make the cul-de-sac acceptable to the County Fire Marshall doing this. This was a problem in the earlier iteration which was the long cul-de-sac with no road coming across.

Alderman Lucas: That means that Planning Commission would not have to grant a waiver on this.

Hugh Earnest: Correct.

Alderman Lucas: So that eliminates that issue too?

Hugh Earnest: Yes ma'am.

Alderman Marr: Does this go back to the Planning Commission with us requesting that they look at this different design?

Kit Williams: I think that is correct. I mean you can turn down the appeal, you could kind of grant the appeal accept that I would be reluctant for you all to adopt this as a plat because this was submitted by a resident and not by the developer or you could return it to the Planning Commission with instructions. Are there any other options that you could think of, Jeremy?

Jeremy Pate: Not that I am aware of. No.

Kit Williams: Those are your three options that you have.

Hugh Earnest: Our request would be that this be handled internally, so that we may proceed with the development. I think it is the authority of the Council to do this without returning it to the Planning Commission, but I am going to leave that to you and your attorney's ruling on that, but our position would be that we would like to proceed with the development with the small changes that are necessary. With respect to the design it can be handled internally with instructions and discussion with the Planning Staff.

Alderman Marr: I don't have a legal perspective on it, but I feel that part of this discussion took place at the Planning Commission. There is a couple of commissioners, particularly at the subdivision level, as I read the minutes, all three of the Subdivision Committee member were comfortable about talking about this particular issue and so it seems to me that it should go back there. They have had some dialogue on it. I am certainly in favor of granting the appeal, but I think they need to make the design because they do it not in terms of a process, but that is just my thoughts.

Hugh Earnest: Thanks. I really appreciate the opportunity to be here.

Amy Buckner, 2668 Stacey Lane: It is lot number 27 that was approved and will be the only resident of West Haven right now. We support the plat that was approved and we're opposed to the appeal. The approved plat addresses the traffic concerns and connectivity by offering connections with Stacey Lane to the south. This means that at least 15 of the approximately 45 new lots of West Haven will not travel the entire length of Stacey Lane but will use the southern connections. The southern connection also allows cars to turn on to Timber View, which will require slower traffic on that part of Stacey Lane. Having the two connections on Stacey Lane better spreads that traffic more evenly among the three openings into West Haven. On a personal and more selfish note the changes proposed direct the majority of the traffic past our

house, places roads on two sides of our property and eliminates the lot which is adjacent to our property line to the north. The developer's sales contract with my mother, who was the seller, states that she is to be deeded lot number 26, which is directly north of our property. The developer is committed to keeping this agreement as long as the plat develops as presented meets code. I see no reason why he can't honor his agreement and have this plat approved. The original plat met the requirements of the subdivision code, already passed the Planning Commission and was approved. We feel that West Haven is a well thought out traffic responsibly development. We don't support the appeal. One suggestion, was to move the top of Stacey lane two lots to the right or left which would break Stacey Lane from continuing straight through the development. There is very little property on the other side of West Haven; Wheeler Road is not very far from there. There is not going to be a huge development on the other side. I guess I just don't see the traffic concerns. We all have children and I tend to drive slowly because I have children and I know that other people do to. Thank you for listening to me.

Alderman Lucas: Is this a safety issue, do we consider it for safety. We are trying to work a problem out when really what we're supposed to be considering is the appeal.

Kit Williams: If you were going to actually deny the preliminary plat then certainly you would have to say it is because it created or enhanced a dangerous traffic situation. You do have the option of saying, well it's neither approved nor turned down but referred back to the Planning Commission. You should only do that if you feel that there is a safety problem that can be better handled with a different drawing or a different plat such as the one that has been presented. But if you were going to turn it completely down then you certainly would have to establish that it created or compounded a dangerous traffic situation.

Alderman Lucas: If we turned it down?

Kit Williams: Yea. If you actually denied the preliminary plat.

Alderman Cook: Do you see the possibility that if we were to vote to send this back to the Planning Commission that we would come out with something that would be palatably to everyone and safe?

Jeremy Pate: I believe so. A lot of the same discussions were had at the Planning Commission in their discussion. I think with the motion of approval of the sub-division there were potential options. After the meeting, there was discussion that there were some changes that could have been made with certain motions to change the plat and those did not occur. The decision to appeal was an appeal to an approval of that plat. So if you approve the appeal then essentially, correct me if I am wrong, you are denying the preliminary plat. I think with direction from the Council and hearing from the neighbors tonight if you did refer this back to the Planning Commission we would put this on the next Planning Commission agenda and include the minutes from this meeting and repeat what ever is decided by the Council tonight for the Planning Commission to ultimately decide. If you could give them direction in what way to go as far as you recommendation as Council members.

Kit William: As Jeremy said it would be good if you would explain to the Planning Commission why you are sending it back and what you wish to accomplish by referring it back to them. You don't have to put that into the motion.

Alderman Marr: My intention of this motion was so that the Planning Commission will reevaluate it looking at the Double Springs preliminary plat and where connectivity was listed on that plat and try to incorporate those as opposed to adding new ones and not increase any unsafe conditions and deal with the cul-de-sac so it does not require a variance by the Planning Commission or County Fire Marshall to not meet their requirements.

Alderman Lucas: I know that this is not popular with the neighborhood but I don't like cul-de-sac even that long and this property does go down to Stacey Lane and it is reasonable even though there is not a stub out there that there could be a road out there. So I think that they need to look at all of it.

Alderman Thiel: I like that idea of moving Stacey over so it is not a straight shot. That, to me is a traffic issue.

Alderman Lucas: Certainly we can have four way stops or something.

Alderman Marr moved to send this item back to the Planning Commission for re-evaluation. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

This item was sent back to the Planning Commission for re-evaluation.

Mission Boulevard and Lafayette Street Rezoning Study: A resolution to refer a rezoning study and possible rezoning amendment of the Mission Boulevard and Lafayette Street area to the Planning Commission.

Alderman Thiel: I brought this rezoning study forward because my constituents asked me to. Alderman Reynolds and I both heard complaints about the use of the old Arkansas Western Gas warehouse as a salvage yard at most of our ward meetings and individually. Recently I met with the neighborhood about this problem and based on that meeting they have signed a petition to rezone their own property in order to rezone the entire block. The resolution before you tonight would refer that rezoning study to the Planning Commission. I own two houses a half a block from this property. My father built those houses when I was a baby and I grew up in that neighborhood. I have discussed the issue of a conflict of interest with the City Attorney and he assures me that there is none. So I would like to hear comments from the other Alderman and from the public.

Alderman Marr: We had discussion with their neighborhoods, and actually this area on the other side of the road is the area that I hear from more so than the side that abuts this property as relates to noise in the industrial use as it is bordered residentially. But there were concerns, I think all the way around, everyone feels like we need to look at this issue and we need to address it, but we also need to be sensitive to property rights and zoning and things that people have. I think that I mentioned at agenda session; my concern was the request for the expansion permit, which I think generated some of this activity. So I went and visited with Mr. Lindsey to try to see what alternatives there were. Ultimately, I think that he would agree, he is here tonight and speaks as himself, no one would design this and have an I-1 surrounded by all of this residential.

The reality is that we also heard Tuesday night that even if we went with this down zoning process of study and movement that that property could continue to operate as a none conforming use, indefinitely, for ever and ever as long as there is not a six month gap in that use. So, I think that we are dealing with something that is not just going to go away. And so part of my mind set went into can we talk about hours of operation, can we talk about additional screening, and can we talk about how it works today, because regardless of what happens ultimately we still have to get along. So when visiting with Mr. Lindsey, I threw out every option that I think we talked about. I threw out if we could get commitments not to expand this operation at all, that's certainly a concern with the neighborhood. I threw out any interest he had in down zoning his property and he shared with me at the meeting that is a concern. Obviously, even if he goes to down zoning in the future that under the ordinance of that, if his building needed repair above 10% or some percentage I think that Tim shared with me, that he would not be able to do that and that was obviously a concern of his in the down zoning. Or if a tornado happened to hit in this area, it would be kind of like my garage was on Mt. Nord, you wouldn't be able to build it back. So he had concerns about being able to in that down zoning do that. He also felt that he had property rights and that there is court guidance in reverse condemnation and some of the impact on him and that I would hope that we could work this out with out going through the court system. And thirdly we talked about swapping land, finding another piece of land that may be more appropriate, but that needed to be land that would be economically comparable so that he would have warehousing space and allow what he is doing in the space off of Mission and Maple. I think there are still discussions that would be beneficial and so what I hope that we will do is look at tabling this and continue those discussions before we get everybody in different camps to see if we can really work it out for everyone. I think Mr. Lindsey is committed to not expanding that operation with the permitting process. And I know that he met with the City Attorney, I wasn't at the meeting, so Kit may have information on how to address that. Personally, I wouldn't be interested in changing our ordinances that allowed him to repair and replace, but I do think that there might be ways that we could look at that that didn't change our ordinances for all of our zoned property. So that's a recap I guess of what we talked about.

Kit Williams: Tim Conklin and I did meet with Mr. Lindsey and his attorney, Mr. Stanley, and talked about those issues, many of which Alderman Marr has already talked about. We did look at the difficulties in trying to meet his expectations and yet the neighborhoods expectations too. And the first goal that we thought would be acceptable to all parties at this point in time is trying to at least keep the status quo. Mr. Lindsey had been looking at possibly building another warehouse maybe increasing his operations and I think that was one thing that made the neighbors very concerned, so I think our first goal would be to maintain the status quo so the neighbors can be assured that there will not be any further expansion at this point in time, but also assure Mr. Lindsey that we are not about to go and do something that might adversely effect him in the future. To try to reach that goal, we talked about many things and actually his attorney presented an idea of a possible bill of issuance and we talked about that for awhile. I think what we eventually came up with is not a bill of assurance, because we are not actually rezoning, and that is what you actually do a bill of assurance to encourage you all to rezone, and he wants us not to rezone, so basically it would be more of a contract, between the City and Mr. Lindsey where he would agree not to build any further structures at that location and we would agree not to rezone. Both sides would have a right, with proper notice to go ahead and attempt to rezone it or something because you all can't firmly bind a future City Council about rezoning. That would, I think assure, for a period of time a status quo while we try to work on a more long

term situation because I think in the long term it is really going to be better for everybody involved, if this industrial use can be moved to a more appropriate location. Mr. Lindsey has an investment in this and so what we need to try to do is work out something that would recognize his investment, not force him to take a bath on this, but still attempt to get this property back into a mainly residential state, probable multi-family but not as high density as what has been talked about at some point and something that the neighbors would be able to feel like was a good solution to this problem and yet something also that Mr. Lindsey is comfortable with. Part of this property, of course, has giant gas mains under it, high pressure gas mains. It has a building that is nothing but gas valves and meters and things like that and so that is going to cause some difficulty in developing that property any way, because you are not obviously going to put residential structures near a high pressured gas main, it would be too dangerous. But I think that if this is tabled tonight, it will give me a chance to work with Mr. Lindsey's lawyer to come up with a contract that I can then present to you all and see if you all would accept that and that would pretty much put every thing on hold in the status quo right now. So there won't be any larger growing problems and give us more time to work out what I would hope to be so sort of a better final solution on this. But that will take some negotiations and some consultation with the City Council and what you are willing to do and what you would like to do and what the neighbors want to do as well as what Mr. Lindsey feels like would be fair to him to. That's a much longer process and that's why I think hopefully at your next meeting, we would have a contract that would kind of hold everything in that status quo while we under go these other negotiations. Mr. Lindsey is here, Tim was at the meeting, if they want to expand on that at all I would be happy to let them comment on that. Certainly Mr. Lindsey needs to, I don't want to speak for you.

Jim Lindsey, owner: I will say this, in my business life I don't know if I ever made a dumber call in calling Tim. Certainly I knew the sensitivity of that issue over there. But, we had planted some shrubs and done some different things and we were going to give that old building, the main building a complete face lift and expand it for about five or six thousand feet. It was going to be a far superior building after we got through with it than it was before. We had stuff stored in an airplane hanger and I was going to move it down there. That was my whole intent of the call and he was doing his job when he told the proper authorities. I don't know about anybody else, but I hadn't had a complaint myself in eighteen months or so. But I did go brain dead, and call him and asked that knowing how sensitive that was over there. To that degree and extent, I apologize, that was not very smart. But my point is I am willing to take a position that we will leave our buildings like they are. I would be willing to go to the zone that all the neighbors are, right now. If I applied for rezoning there is no assurance that five years from now that I will not have a conditional use situation and I might not be able to repair a building if a storm came through. 10% is an official minimal damage issue and so I guess to my point of view, that I would like to reverse myself, apologize for the call. It was really an informational call more than it was a demand call, but at the same time I would like to use the property as I bought it. I know there has been a letter that's out there. The letter is never on record, in fact the first time I saw the letter is just recently, in the last week dealing with what the Gas Company had said to their attorney about what they might do or what they wouldn't do and all that. And I have agreed and sent Tim a letter that I would not sell this for more intense use than it is now. So I guess that I could say to myself the letter I sent him, when I said I am going to talk to him about adding on to the building, I may have even violated that letter. I don't even really know why I made the call I just new we needed some extra space and I just thought to myself that if I am going to give the building a facelift, it might be something that everybody would see positively and really I have

told the neighbors and say it again tonight that if they want us to plant some trees on their side of the fence, we will do it. We have already planted trees on our side of the fence and we want to make that a better place. We have restricted the hours, if that's been violated I would say that it has happened without my knowledge, but we have restricted the hours of the site so that it would be during the normal working hours and hopefully all that has been abided by. We do want to be a good neighbor, I would be the first person to say that it's out of place, in the middle of those houses, although I think it was there before all those houses were built, I don't know. But I think that's right. So through the process, I would want to tell you all is I am in a mode of corporation, I think it was a wise move for somebody like us to be adding on, for Alderman Thiel or whoever did it to call this up. What we would like to do is move back to the position we were before to continue to landscape, to isolate this place so that in really retrospect we would be able to say to everybody here that we all agree with what we are trying do and that is to buy some time. Buy time for the situation to get to a point when it makes sense to do this. One of the complications is the location is a valuable location, for its location. When you walk inside that building it has got all those valves and gauges and everything in it, it makes you a little nervous about what you would build there. It would make you nervous if it was a park, easement criss-crossing and all that goes with it, but I would want to say that to the degree and extent that I came up with that and called knowing the sensitivity. It was one of the less bright things I think I have done in my life, so to that degree and extent I apologize and we would like to rework ourselves through Kit, we would be willing to put a convent on record that goes into this agreement, how ever that is finally worked out. If any one has a question for me, I am here.

Alderman Reynolds: Mr. Lindsey, the visit when I talked to you, you called a foreman at the site and the foreman said that you have no pressure, you have no compactor, which you put these items in a bin and a front end loader mashes them and he said he has those limited to five days a week from eight to three or something and then he doesn't do it on Saturday and Sunday, only if it is really necessary, but hardly ever. That was what I wanted to relate to the neighbors and I haven't heard any noise complaints in quite sometime, so I think you have got that cured, but I think that rumor was out there that you had bought another piece of property close to this and you said that it not true.

Jim Lindsey: That's not true. I don't own anything but this. I apologize to the neighbors too, by the way because that was a real insensitive call that I made to Tim. My mind was that I was going to improve my building, upscale the build, change the outside of it, make it look better, extend it a distance, that wasn't very good judgment.

Alderman Jordan: Thank you for coming.

Jim Lindsey: Thank you all.

Alderman Marr: Mr. Lindsey, we just don't want it expanded. I think that the thing we hear about is the noise and if you ever decide to sell it, I would love for the City to have the first right of refusal on that piece of land. That's something we hear all the time.

Jim Lindsey: As far as I am concerned we could put that in the document to. I don't have any kind of a problem with that and I appreciate everybody's concern enough to even deal with this. And for you guys to call us and talk about it. I thank each one of you. Thank you.

Alderman Ferrell: It sounds to me like reasonable minds can get together here, Kit said he thinks that something reasonable can be worked out and I do too. I think we should just try to get together and work this deal out. What did you call it Kit, a contract or something?

Kit Williams: Well initially I had proposed a contract to you that will basically just hold a status quo, you'll agree not to increase and will agree not to go forward with the rezoning until we give him notice which would allow him to get a building permit. Because he could have got a building permit before tonight, nothing that the City Council could have done would have stopped that. The building permit would have been good he knew that, because I think that he talked to Alderman Thiel, Alderman Marr and Alderman Reynolds and he agreed not to go ahead and pull the building permit because of the fact that we wanted to work with him as opposed to trying to just be confrontational.

Karen Reese, President of the Washington Willow Neighborhood Association: I appreciate the fact that Mr. Lindsey would like to work with us on this, because I think it is really important that we find a way to work this out. The current use of that property is not conducive to neighborhood living and we border it and the Mt. Sequoyah neighborhood also borders it. So it's not great, it's not good for us. Mr. Lindsey's campaign slogan or his advertisement slogan is 'We bring good neighbors together' and this isn't happening in this situation but, I would challenge Mr. Lindsey to consider, I know there are gas lines there, but to consider donating this, surely he can get a great tax break and Mr. Lindsey you probably need a tax break. So I would ask you to donate this land as a park, I would be willing to call it the Lindsey Park, and take this industrial use out to an industrial area so that we don't have the noise and we don't have the trucks coming down our streets. He has planted some nice Crape Myrtles out side the fence, but it is still not conducive to both neighborhoods. So, I am glad that he wants to work with us and that something can be worked out, but we do have hundreds of signatures from our neighborhood, Washington Willow, and I think his daughter probably still lives in our neighborhood, I am sure that he wants to insure that we have a quite, calm, safe, neighborhood where there's not this grinding noise and even if it is happening at two o'clock in the afternoon, its happening. Some people have odd schedules and it's just not good for the surrounding neighbors. So I would just ask that he consider doing something like this and we would really appreciate it. And I think that he could sell a lot more houses if he would do that. Thank you.

Alderman Jordan: Thank you Karen.

John Crone, Landscape Architectural Professor at the University of Arkansas: I appreciate this opportunity, I actually don't live on that particular street, and I appreciate this opportunity simply just to make a comment. I also am in a rental business in a very tiny kind of way with only a half dozen houses, but I do own some property on the extension of Lafayette. Just a few points of clarification are in order. I think that the Gas Company when I spoke with them last fall, it was something like a half an acre in there and certainly it is not uncommon for residential areas to be built in proximity to them or for other uses to take place. I mean that the Gas Company is aware of safety issues and certainly doesn't want to be liable, so I do think that there are a number of possibilities that can be worked out, referring to what you said, Kit. I am concerned that the point we make, that the time frame that you mentioned actually has some limits on it. In other words if you're suggesting that yes lets work together on this, I think that people in the neighborhood might listen if it didn't go on for the next five years. Did you have a time frame in mind that you have spoken about with Mr. Lindsey?

Kit Williams: Much less than five years, but I am not sure how long it would be, but in my opinion I would want to have something back within two or three months that I could present to the City Council as a possible solution. It doesn't mean that the City Council would feel like it is the best interest of the City to do that, but it would have to be something that is acceptable with Mr. Lindsey and to the City Council as well as the neighborhood and sometimes those are a little difficult to draft to make everybody happy, but I agree with you, I don't think it should be a very long time frame. If it is, then basically we are just right back to where we started. I would like to try to see if there is a way we can actually solve this problem. I am not sure if we can get there but I am going to try.

John Crone: Thank you. The only other point is that there is this issue of rezoning and I think that as part of that if you could look at this or at least have your Planning Department look at the possibility of this whole notion of an R-6 in there. I think it would add to the neighborhood some guarantee that something strange isn't going to happen in the future with or without Mr. Lindsey. I think everybody is interested in the quality of life issues here. This is certainly part of Fayetteville that has a very long heritage and it strikes me that as you go through this if there is a way to kind of keep the issue here on target that it would certainly be part of this solution, because I do think that part of that area is zoned something like 24-units per acre which I find a little odd that far from the core of a town where that type of thing usually does occur. Thank you very much.

Alderman Jordan: Thank you.

Camellia Roman: I have two modest properties on east Lafayette directly on southeast Lafayette directly in line with Mr. Lindsey's yard. I just wanted to make a couple of quick observations. I was listening to the agenda item that immediately preceded this one and I heard a tremendous response on the issue of safety and it has already been brought up tonight. But I really appreciate, Mr. Lindsey, that you tried to beautify the property and planted the Crape Myrtles and put up the fence, although I don't like the fence very much. The issue has already been mentioned.

Alderman Jordan: I might ask to address the chair.

Camilla Romund: I am sorry, these huge trucks, beautification is a separate issue from the traffic, and we are all aware of that but I worry so much about the kids in the neighborhood and the adults. We have so many walkers and so many bicyclists and these huge trucks coming through, I just noticed that there was tremendous emphasis on safety in the agenda item previous to this one and in this one it seems that property rights were ruling and I didn't hear a word about safety out of anybody up here, so that is central to me. It is tremendously stressful to try to come home from a high pressure job at lunch everyday and try to relax and hear the noise decibel from the grinding and it puts you on edge. I have called within the last eighteen months and reported noise problems anyway I am singing to the choir out here, but first and foremost we should have the same safety consideration that other areas of town have. And then the other issue is the habitat for varmints because we have a lot of problems with mice in that area of town. There are a lot of issues here and I know they have been brought up before, but safety should be equally distributed across the City of Fayetteville and we all need peaceful neighborhoods. Thank you.

Alderman Jordan: Thank you.

Steve Winkler, Property Owner: I own 654 East Lafayette that adjoins the subject property and I owned property next door there for about 20 years. I feel like this is kind of a de-ja-vu, it's what they call a flare up. The people in the neighborhood get kind of upset about every three or four years and I have documented it over the years. We are quite familiar with it, Alderman Reynolds, Alderman Thiel have dealt with it. And there are some new ones so I will just give you a brief history and try not to be repetitious, but be brief. The Gas Company built there in 1926. The City went through the city wide zoning and I know my dates aren't exactly right, in the early 70's. There were many mistakes made in their city wide zoning which they admitted, mostly in the south side. They zoned that property where the Gas Company was; when the Gas Company built it it was outside the city limits and it was bordered by Tanglewood, Dogwood, Lafayette, and Maple. Even though there were houses on there, they zoned them also in the I-1. They made the mistake there because they should have zoned it as a residential neighborhood with a non conforming use because no one ever intended that to be an industrial neighborhood. And the area grew up around it, there was some light neighborhood commerce down on Mission Street and I bought property in there in 1974 because I located a little treasure there. I found a little industrial zone that was surrounded by residential property and I saw a gold mine. Because there is just a lot of things you can do in an I zone that you can't do in a residential zone and yet you have the ability of being close to the residential piece, so I was a pretty smart cookie and opened my salvage yard there. I was tearing down houses at that time. A fellow applies for a permit to put in a little neighborhood nursery, down on the corner of Mission. But when that activity began to happen in the neighborhood, it was a big deal. They did not want any commercial activity or any industrial activity in that neighborhood and they came around and visited me and other people and tried to persuade us to relinquish our I zone. I said well I bought I zone and I have my property rights and I think I should be here. So at the meeting, there were three of us that objected. There was the Gas Company that didn't want it because they couldn't expand their buildings and they weren't able to add on and they had already gotten property they had bought in the industrial zone down south of town. They weren't quite ready to move and it would be a hardship for them and they just didn't want that zoning. They didn't want to zone it; I didn't want to change the zoning because I was operating my salvage yard in there. The fellow on the corner that had the little building there that was rented for what is now the bakery, he objected. But over time, the City Council members came and talked, they said the direction of this neighborhood is residential. They said that we don't want this to go commercial and such that and I said but look, I have made an investment here. I am not just a resident, I was single then. And I said that I want to be able to maintain my investment in this property. I will go along with it if you will zone it R-2 that way I could build a duplex or apartment or something like that and the Gas Company if they will revert that back because why would I want to have a R-2 next to an industrial zone. So I said that if I am going to go for the R-2 I want them to change and they stood in a meeting just like this. They stood there and it is in the minutes of the meeting, all on record, 1975, the Gas Company representative said that when the Gas Company moves we will inform the City and at that time we will revert back to an R zone and will tell the City when we are going to move. So I will go along with their rezoning. The Gas Company is there and in about 1991 the Gas Company moves and the place is sitting empty for a while and the Gas Company installed, I guess they thought that they had vandals over there, so they installed some huge lights like some airport lights and you couldn't go out of your house at night without shielding your eyes. We called our Alderman at that time, Mr. Williams, and we petitioned and the place was empty and abandoned and went before the Planning Commission or something like

that to get something done about the lights and they did change it back to normal mercury vapor lights. At that time we pointed out, we didn't really have a neighborhood association at that time and we pointed out that this was not supposed to be there anyway and I got a letter from Mr. Williams saying the he would look into it. I checked on any historical agreements that had been made and it still sat empty. Well the next thing we know there are some buildings being repaired over there and we found out that there's a new owner. So what made the neighbors notice was that there was increased activity. It was obviously back in operation, so the City missed some opportunity there, first they shouldn't have zoned it that way. Then they missed a chance to make it right while it was empty and then we had our neighborhood association developed and we talked and they called and petitioned and were often time told that there was times we were going to march the City Hall and they said no that it would hurt the deal and they said that they were talking with the lawyers and this is all documented stuff I am telling you and that was in 1991 and then in 2002 that was when they did this thing, no one really knows what happened to that idea. Mr. Conklin has been familiar with this for a long time. They realized that they had made mistakes in the zoning. They were going to go around the neighborhood and was going to survey the neighborhood and see where the problems were and we were next on the list. I remember at a meeting they had up at Mt. Sequoyah and somebody from the City said you guys are going to help out in this survey and we are going to expose and look and see where the problems in the zone exist in this neighborhood it was cancelled. Word was that the Mayor said that there were more important things to do basically and it just went away. And so what I am hearing tonight is what I have heard before. And I have heard them say that we are talking to the lawyers and it was nice that someone said that let's put a time limit on this. We have talked to the lawyers in 2001 and 1991 and you know there is a lesson here for the citizens of Fayetteville and that is if whatever anybody of the Council means nothing with out some kind of legal bill of assurance. You can go out make personal guarantees and talk and whatever is said in this room, whatever the developer said in this room, whatever a citizen said in this room that they are going to do matters not unless it has the lawyers behind it. But that is what the lesson is here because whenever you go to the City Attorney's office they'll say well you know we didn't get the bill of assurance so we really can't do anything about this zone, this industrial zone. You can walk up and down City Hall and say who thinks this should be there; no one thinks it should be there. This shouldn't be there, this is a mistake. The only thing that defended it is the argument that it has been there a long time. Like a wart on your nose, you can't do anything about, it's been there along time, well that's it you can't do anything about it because it's been there a long time. That is the only argument that anyone has ever made why this industrial zone sits in the middle between Mt. Sequoyah and the historic district, prime property in Fayetteville.

Alderman Jordan: I might ask you to come to the point here.

Steve Winkler: The point is the City Director's, the Councilmen could do something about this issue and what we are trying to do now the way I understand it is to just down zone. No one knows where this R-24 came from, if they can actually do any thing that's great. They just need to know that this is not something new, it has been festering since 1975. I appreciate your time. Thanks a lot.

Alderman Jordan: Thank you.

Nancy Williams: I live at 716 East Lafayette. The back of my property abuts the industrial zone. If you look at an aerial map of our area you will see an ocean of houses and a little island

of industrial activity, which we talked about its history and historical circumstances in it being there. Since last Thursday, the workmen at the site have been tidying up a good deal. It's kind of all neat now and a little bit quieter, maybe they are expecting company, I don't know. Fayetteville is a city of wonderful neighborhoods that support and foster family life. Traditional neighborhoods provide safety as they play and come and go from school. We have mentioned tonight that we are extremely concerned about the truck traffic in a neighborhood that has children. These are huge trucks; they are eighteen wheelers and Lindsey Construction trucks and everything down from that. Neighborhoods provide the peaceful enjoy of property. In 2002 my elderly next door neighbor was being cared for by hospice at home and was accompanied to his final rest by the constant beep, beep, beep of back-up alarms, and the crashing of old couches into dumpsters. Neighborhoods provide for stability, financial stability for one thing for families and we believe that the presence of this industry is detrimental to property values. The worst of fact is, in my immediate neighborhood is destabilizing effect of this property. Over the last three years, three of eight families have moved away from my block, either partly or entirely because of this industrial site. So we are hoping that you all can work together to restore the integrity of this neighborhood. I would like to share with you three things that surprised me when I was canvassing our neighborhood for signatures. One was that I was told that eighteen wheelers are coming down one of the oldest streets up there and is very tiny, narrow. It must be quite a sight. The other thing that surprised me was how many people think that the City owns this property and the last thing that surprised me was the vehemence of the resentment especially up the hill. People told me that they were embarrassed by this industrial presence and that when they entertain friends from out of town they try to find some other way to drive to their house so they don't have to go by there. And of course we have the Mt. Sequoyah Methodist Retreat up there that brings people from out of town continually past that place. We appreciate very much your efforts to restore the integrity of this neighborhood. Thank you.

Alderman Jordan: Thank you.

Paul: I am a resident of twelve years, about a block away from the Lindsey property. When I here you say that you want to resolve this in a two to three month time, to me that doesn't seem like enough time because it is such a complex issue. There are so many things involved here as many people have mentioned, we have been to dozens and dozens of neighborhood meetings where this is the number one issue, where we have had present day Council people attend as well as in the past and they have always said we want to do something about it but our hands are tied. We just can't do it, its zoned industrial. Another issue is that that's my understanding is that the Gas Company did some processing on that plant which may have resulted in that land being polluted to the point of it being a toxic site. I know I have walked by that site many of times and seen piles of appliances and thinking has there been any leakage. So it seems to me there are a lot of different issues that the city has to take into consideration here. And I wish that they would take their time and do it and resolve it once and for all on a long term basis not just come back and say it is not going to expand but it is going to be there for ever, because that's just the way it is. Thank you.

Alderman Jordan: Thank you.

Cynthia Peven: I own a house at 514 Mission Blvd that's just the second house from Maple Street north on Mission. I grew up down here around this Gas Company because my father was Arnold Kristy; he was the town plant manager for Arkansas Western Gas so I spent a lot of my

childhood and youth on and off of this Gas Company warehouse property. To say that the operation there is equivalent or the same; it is in no way equivalent or the same. That Gas Company property has been there since before some of the houses in the region were built. My father used to tell stories about there not even being a street where Maple Street is, in his youth. The Gas Company was already in that area and that's where they brought the gas line into town and brought gas into Fayetteville. However, that doesn't necessarily excuse an on going free pass to get this in any type of industrial use that anybody chooses to make it. When the Gas Company operation was there, that was where they kept their heavy equipment, their pipe, their industrial supplies for welding and cutting and parked their trucks and things like that. And it was a very industrial operation, but at the same time the Gas Company made an immense effort to keep that clean and tidy and habitable and to be something that the neighbors in that area could live with. The gas company at some point realized that that site didn't suit their interest and so they sold it and built a larger warehouse facility and in a more appropriate setting. Mr. Lindsey came into this deal at some point when it passed from the Gas Company and maybe SWEPCO's hands. It may have gone through several cooperative renaming's. He came into that at about the same time he bought the Leach Property out on Joyce Street and to say that we are going to harm him financially in terms of the use of his property, I think he has probably realized quite a bit of that investment back even up to this point. Just as a resident, a homeowner, there in the area doesn't want the status quo to go on indefinitely. Mr. Lindsey was saying that it has been eighteen months since he has heard a complaint, that's because when we all come down and complain we get redirected to a new person. Most recently we talked to the planner and we have talked to our Council people. We have talked to Mr. Lindsey and each time it is we will look in to it. Then eighteen months later nobody has heard back, and it is time that we start talking about it again. Just to say that we are going to keep him from making it more industrial, begs that point, it's not appropriate in the site. It's not attractive at the site, the fence is not attractive, the noise is not appropriate, the traffic is not appropriate. It goes up that narrow little street on Maple Street; it goes through that four-way stop between the state highway and Maple Street and trucks and heavy equipment are not needed in the area. Surely we own property in the City of Fayetteville that we could consider some sort of trade. I know that we went through great lengths to establish an industrial park on the south end of town. Surely there is appropriate property for this operation down there. If the Gas Company was so concerned, now I am the first one to say, you know the main line goes through there, it goes under the lot across the street where the community garden is. But if the Gas Company had a safety concern about that main line, they would never have sold the buffering surrounding property. Now Mr. Lindsey is an extremely creative person and an extremely intelligent developer and I challenge him to come on board and work with the City of Fayetteville, look for an alternate site for this recycling operation, because if it were his case he would not want to live next to it. None of us want to live next to it; none of us want to have to try to sell our houses next to it. You know this could be a very attractive development place. The neighborhood of course would first and foremost like to see it converted into park land because the nearest park land is either up on the hill at the water tower or over across College Avenue at Wilson Park and the Historic District actually has no park of its own. So that the neighborhood would find a very acceptable use, but I personally would find him developing into townhouses, developing it into some sort of attractive neighborhood use, very acceptable. I have no problem with him buying houses that front out on Mission Street and squaring the block and giving it a more coherent unified use, but the uses that it is now is nothing but a burr under the saddle of that neighborhood and we would like to come on board with the rest of Fayetteville and say we too feel like the interest of our neighborhood are being served. Thanks.

Alderman Jordan: Thank you.

Alderman Thiel: Well I think some very interesting points have come out here. I do think that in fairness with some of the previous discussions with Mr. Lindsey that we do need to table this for three months. I think there needs to be adequate time to work out a permanent resolution to this issue. The City Attorney referred to some type of agreement coming back to us in the very near future that would stop any action. There are actually two issues here, this was a rezoning for the people that have actually signed off on rezoning their own property and I am not sure what to do with that aspect. I think most of them are inclined to want to rezone their RMF-24 to RMF-6.

Kit Williams: I might suggest instead of tabling this for a long time you might table it to the next meeting or the one after that and amend it to remove the Lindsey land from it and then you could still go forward with the other property and ask for a study of the other property where the people have signed a petition to reduce the zoning from RMF-24 to RMF-6. The neighbors need to realize this initial agreement is only for the status quo it is not supposed to be forever that will not be a good solution for the neighborhood if we can't work out anything with Mr. Lindsey then probably rezoning it and making it a nonconforming use is better in the long run.

Alderman Thiel moved to table this resolution to the December 6, 2005 City Council meeting. Alderman Lucas seconded the motion.

Alderman Marr: In my personal discussion with Mr. Lindsey we talked about finding another piece of land if it was comparable that this would be moved to. That is not something that is not being looked at. That is one reason that we talked about needing more time. On the rezoning request, I don't want to make the people I represent mad, but I think we have to be careful that if we flip the table and it was reversed, if Mr. Lindsey came in with a zoning petition and wanted the entire area to be I-1, we would be looking for the property owners of each of those lots to talk about what they liked on that particular property. I think it is appropriate for the people that want to petition their land to be down zoned to be looked at just like we did on Mashburn. We didn't take property on Mashburn from people who didn't want their land rezoned to be in that particular study. I think we need to try to appeal to Mr. Lindsey and look for alternative solutions to the I-1 property. I tend to think of it in two parts, the I-1 piece I do think is your three month time period and the rest of this map that you gave us is what we come back and talk about at our next meeting.

Kit Williams: I would just remove the I-1 from this resolution.

Alderman Marr: I think we want the time to continue discussions with the city, Mr. Lindsey and the neighborhood to see if we can identify something because just doing land isn't an equitable exchange when we are talking about warehousing space and the ability to do the operation. We have land in the industrial park but what we are trying to do is find land that has a warehouse and we can move the operation and there is not a negative impact and then we can take this land or the other option is to try to buy that land.

Alderman Thiel: As part of the contract there will be a time period for negotiations.

Alderman Reynolds: I am trying to find a replacement for Mr. Lindsey and it is going to take a while to get that done. I think we need no less than 60 days to find an alternative.

Kit Williams: I will propose a contract to you at the next meeting that will hold the status quo as is. That will give us time to try to find a final solution to this problem.

Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

This item was tabled to the December 6, 2005 City Council meeting.

R-PZD 05-1635 Fallingwaters: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1635, Fallingwaters, located east of Dead Horse Mountain Road, containing approximately 136.70 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. He stated this proposal is for a 258 maximum single family residential lot subdivision. The applicant has proposed the dedication of 6.2 acres on the top of the hill. The lots range in size from 800 square feet to almost an acre. There will be an area dedicated for a water tower. A water tower is needed to adequately serve this project. This property is located in the Dead Horse Mountain Road bridge assessment area and there are fees that will be assessed for it being in that area. Staff and the Planning Commission have found that this proposal is consistent with the General Plan 2020 for this area which is residential. We found that the development and the rezoning proposed is compatible with surrounding properties and is responsible to the unique environment in which it is placed. He stated there are a number of conditions for approval.

Jeremy went over the conditions of approval for the project.

He stated the assessment fee for the bridge would be \$118,654.05 for this development. The phases are projected out over six years. The Planning Commission recommended 8-0 in favor of this project and staff is recommending approval.

Alderman Thiel: I really like this project and appreciate the developers working with staff.

A discussion followed on the need for a traffic signal due to this development and other developments in the area and when the traffic signal will be needed. Jeremy stated they feel the developers in the area should be assessed a fee for the cost of a traffic signal. Jeremy said we would not charge any developments that have already been approved by the Planning Commission an assessment fee.

Alderman Reynolds: Areas to the east of this property have problems with their water pressure. Is this project going to be on the same line that those people are on?

David Jurgens, Water & Wastewater Director: This is being discussed by their engineers and the city engineers. He discussed the possible ways the lines might run. He stated that pressure problems are normally caused by leaks or breaks in the lines.

A discussion followed on the water lines in the area and the water pressure. They also discussed the building of the water tank and when the anticipated construction of the tank will be.

Alderman Ferrell stated he likes this development. He asked if the fees for the traffic signal will be captured from this development and other developments in the area.

Jeremy Pate: If that is the direction that is given by the Council then that is the way that we will go.

Alderman Lucas: Is the assessment district cost calculated on the cost for a signal now and is that the amount you assess all the developers?

Jeremy Pate: That is correct.

Alderman Lucas: When the signal is installed will it cost more and who will pay the difference?

Jeremy Pate: It has been our policy for a long time to establish a cost at the time of the development and that cost would go forward.

Ron Petrie: We are suggesting the traffic signal be set-up to where the city does not have to pay anything. Once we reach that point, whoever is developing at the time will have to pay for installation. They will be able to use the money we have already collected towards the cost but they will pay for the remaining cost whatever that amount is. That will probably not be the case for the bridge because we will need the bridge before we have the money to pay for it.

Tom Hennelly, H-2 Engineering gave a brief description of the project. He stated they feel the traffic signal assessment should be phased in as each phase is completed. He also stated they feel the park land should be dedicated as each phase is completed. He stated they are requesting five waivers.

Alderman Thiel moved to amend the ordinance to state the applicant shall submit a deed for the park land as required by each phase prior to recordation of the final plat. **Alderman Ferrell** seconded the motion.

Alderman Marr: That still locks in this center piece park land in this PZD so that they couldn't come back later and say we do not want to do that section.

Jeremy Pate: That would take your approval or denial.

Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Alderman Marr: We talked about the assessment; I am not against that concept. I am just trying to get a feel about how much has already been done. If we go this assessment route versus

the way that you had it what would that wording be and is there any reason that you didn't do that to begin with.

Ron Petrie: It is primarily this now because we didn't have enough data to do it the right way that is my opinion. So, we went the very conservative route and said do it all in Phase I. I think what is being requested is fair in that we determine what the trigger point is, we determine the cost and at that trigger point the work has to be done. If another development comes in, in the mean time, they will get charged a portion of it too. I think it is the fair thing to do and what we would have done if we had all the information at the time.

Alderman Marr moved to amend the Condition #1 of approval to state with the approval of staff, will determine the cost of the improvements, staff will determine the time when the improvements are warranted and we will charge a per lot price to this development from the first lot to the lot that triggers the improvements. Alderman Lucas seconded the motion.

Kit Williams: I think it actually makes a lot of sense. In conjunction with that if another development comes then they will be assessed.

Alderman Marr: This amendment is with the idea that once these cost estimates are set and this development is assessed, if it crosses that threshold, and we will have this assessment district set-up for all future development in this area.

Jeremy Pate: For those other developers that are watching this project and are waiting to submit their preliminary plat, they may be the trigger point and they may be installing the signal if they are coming through with 250 lots. We are not waiting on this development's final phase to get it all plated out. I just want to make sure that is clear for everyone and the public that is listening.

Alderman Marr: That is certainly my understanding, the way you presented it.

Alderman Cook: What is the time frame as far as assessing the cost for this and setting up the boundaries of this assessment district? What is the time frame of that?

Ron Petrie: It will be anybody where traffic can go this route. We have a rough idea because we have an assessment area for the bridge and that was based on traffic. So we pretty much have the boundaries set today by knowing that is what the Council wants.

Alderman Cook: Have the costs been determined on the improvements of that intersection?

Ron Petrie: No.

Alderman Cook: What is the time frame on that?

Tom Hennelly: That will happen within probably 10 days. We should have that as soon as we are able to quantify exactly what the improvements are based on the State Highway Department standards. Part of this is our fault, when we requested the traffic study I did not anticipate this signal being part of it but once it became part of it and we were made aware of it and we got

back with the firm that we hired to do this traffic study. We had not gotten the information back from them as quickly as I had anticipated. I do apologize for that.

Kit Williams: If the City Council changes the conditions of approval as suggested by Alderman Marr where we don't actually have the dollar figures yet but you are going to supply them to us as well as the increase in traffic are you are in agreement with that condition of approval.

Tom Hennelly: Yes sir.

Alderman Reynolds: Has the Hall property come through yet?

Jeremy Pate: No sir.

Alderman Cook: At what point is this assessment collected?

Jeremy Pate: It is collected at the time of final plat. Prior to us signing that plat and it being recorded at the County we would get that check.

Alderman Marr: The cost that is established will be done with the staff's approval.

Jeremy Pate: Correct.

Alderman Reynolds: With this assessment is that going to everything south of Highway 16 and east of the river? Everything over there is going to impact that intersection, that bridge and everything over there.

Jeremy Pate: Most likely. The bridge assessment currently kind of follows the river, everything east of the river and south of Highway 16.

Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Alderman Reynolds: I want to make an amendment. We have not set up the assessment district yet.

Kit Williams: I think the amendment that Alderman Marr suggested and you just passed will in fact set up that district.

Alderman Thiel: Since we have not heard anything negative about this then I am in favor of going forward.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-1. Alderman

Jordan, Reynolds, Thiel, Marr, Ferrell and Lucas voting yes. Alderman Cook voting no. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Ordinance 4795 as Recorded in the Office of the City Clerk.

RZN 05-1754 Park West Heights: An ordinance rezoning that property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at the south east corner of Highway 112 and Deane Solomon Road from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated staff is recommending approval. He passed out a graphic showing the conceptual drawing of the property and the relocation of Deane Solomon Road to make a safer intersection. This concept was presented by Mr. Hoskins, the applicant. There was a request for traffic numbers and I utilized the Sam's Club traffic study to indicate what the existing traffic count in that area was and nothing really has developed since then. They indicate at peak times there is 655 vehicles in the PM and 661 in the AM and a total 24 hour volume of approximately 7,400 vehicles on that road.

Alderman Jordan: So that road is more that adequate in your estimation?

Jeremy Pate: At this time yes.

Alderman Lucas: At the Planning Commission there was a lot split was it this piece of property?

Jeremy Pate: Yes, it was to create the lot, the general shape of the property.

Alderman Lucas: Was it approved?

Jeremy Pate: Yes madam.

Alderman Marr: In the staff report there is a statement that the Fire Department estimates a 7.5 minute response time to this site which meets the department's goal to have all response vehicles at the site within 10 minutes. I have never heard that our goal was 10 minutes to the site.

Jeremy Pate: That is for all response vehicles.

Tony Johnson, Fire Chief: Initial response vehicle we would like to have there in six minutes but a fire response does not require a one vehicle response. We respond from multiple stations and to get the entire work crew there the goal is 10 minutes for the entire crew.

Alderman Marr: We still have a shorter one for the initial response time?

Tony Johnson: Yes we do.

Alderman Jordan: How would you rate a 7.5 minutes response time?

Tony Johnson: It is what it is, 7.5 minutes; we would like to get there as quickly as possible. Looking at the plans that we have and I think all of you have a copy of the fire station relocation and deployment program, it is constantly getting revised. We are going to have to take that into account with every rezoning.

Alderman Reynolds: Isn't a house totally involved in about 7 minutes?

Alderman Jordan: 4.

Tony Johnson: It depends. It depends upon the time of day, what is in the house, the construction; there are too many variables to say that it will be totally involved in a certain time.

Alderman Marr: Do you have a goal of what a response time should be. As we look at these reports what level should concern us when we see a time over that.

Tony Johnson: You should be concerned with both, the arrival of the initial engine company.

Alderman Marr: What number would concern you?

Tony Johnson: We would like to get the first company there in less than six minutes. That is what we are shooting for. A six minute response with the first company with a working fire and a prolonged response from the subsequent arriving companies, that six minute response is not that important if it is going to take 14 minutes for the subsequent arriving companies to show up on the scene.

Alderman Marr: So there is a combination.

Tony Johnson: Yes.

Alderman Cook: It also mentions that there is a six inch water line and that there are going to have to be improvements to the water system. It also mentions the sewer; it is within a sewer assessment area. What does that mean?

Tom Jeffcoat, Milholland Company: There are currently several elements of development occurring in this area which has the same issues to deal with in the water. There is an existing six inch water line along Highway 112 that is being upgraded to serve a subdivision. The development that we are proposing would also tap off of that six inch line to complete a loop which would be brought through Park West. There is a 36 inch line on Highway 112 that is going to be brought through Park West that will tie into this development. So there will be adequate water provided. This development will make water available to other developments. Sanitary sewer is the same.

Alderman Cook: What size sewer line are you going to bring in through there?

Tom Jeffcoat: On the far east side of the property, that this is a part of, is the sewer line extension, the city improvements, I believe it is a 48" line. Currently Springwood is bringing a 15" line up to the south of this property. We have plans to bring 12", 10" and 8" sewer lines to cross Highway 112 to serve Bellwood.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

This item was left on the seconding reading.

Tom Jeffcoat: We have not seen any opposition to this.

Amend Chapter 117.37 - Taxi Drivers Permit: An ordinance amending §117.37 (C) of the Code of Fayetteville to clarify the requirements to obtain a Taxi Drivers Permit in the City of Fayetteville; and declaring an emergency.

City Attorney Kit Williams read the ordinance.

Officer Brown stated the State Police will not give the CDL road test in a non-commercial vehicle and a cab is a non-commercial vehicle. That is why this change is necessary. If they transport more than 15 passengers than the driver of that vehicle would be required to have a commercial driver's license.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Vice Mayor Jordan asked shall the emergency clause pass. Upon roll call the emergency clause passed 7-0. Alderman Rhoads was absent.

Ordinance 4796 as Recorded in the Office of the City Clerk.

S & K Carriages: A resolution granting a Certificate of Public Convenience and Necessity to S & K Carriages for the operation of a non-motorized transportation service.

Officer Brown: Everything has been submitted.

Alderman Marr: In the application it asks for you to list your days and hours of operation and it says evenings, weekends and special occasions. Is that year round or do you have a time frame?

Applicant: Normally the carriages run on the square through the Christmas season from November 19th through January 1st.

Alderman Marr moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 223-05 as Recorded in the Office of the City Clerk.

USable Life and Blue Cross Insurance Renewal: A resolution exercising the second of five one-year options to renew the employee group policies with Usable Life to provide Life, Accidental Death and Dismemberment, and Long Term Disability insurance coverage , and with Blue Cross/ Blue Shield for the Group Medical Plan.

Alderman Marr: I am really excited that we made a good decision. It is my experience that increases are in the 8% range this year for most major employers and to have a zero increase in benefit, I think the HR staff, Finance staff and our broker should be applauded. Thank you for your efforts.

Alderman Lucas: If I understand right there is a section where they can take a larger deductible?

Michele Bechhold: Yes that is a voluntary plan.

Alderman Lucas: The city puts part of the premium into a fund that they can draw on.

Michele Bechhold: Yes, a health savings account.

Alderman Lucas: Do they have to meet the deductible before they start drawing on that plan?

Michele Bechhold: The monies out of the health savings account will be used to offset the expenses that are going towards the deductible. So, they would be pulling money out of the health savings account because the plan is not paying yet as they try to meet their deductible.

Alderman Lucas: The money that is in the plan that they can draw from, if that person should quit, what happens to the money that is in the plan?

Michele Bechhold: The account is portable and they can roll that over into another health savings account or take it with them. They own that money lock, stock and barrel.

Alderman Lucas: And it rolls over so it can build up.

Michele Bechhold: Yes.

Alderman Ferrell: I think it is great. Traditionally in the last couple of years what has the increase been?

Michele Bechhold: Last year I believe it was in the neighbor of around 10%. That was shared with the city and employees.

Alderman Lucas: Will the same amount be for every employee?

Michele Bechhold: As far as the contribution to the HAS, if you have an individual plan every individual plan will have the same amount contributed.

Alderman Lucas: No matter how much you make?

Michele Bechhold: That is correct.

Alderman Cook moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 224-05 as Recorded in the Office of the City Clerk.

City of Elkins Sewer Agreement: A resolution to approve a contract with the City of Elkins concerning their sewer rates and other matters.

Steve Davis: The Sewer Committee for the City of Elkins approached the Fayetteville Sewer Committee in July, 2005 to initiate contract negotiations for a new sewer treatment. The Fayetteville Sewer Committee named Kyle Cook and Steve Davis as the negotiators representing Fayetteville and the contract that has been presented in the packet was recommended by the Fayetteville Sewer Committee and the Elkins Sewer Committee and was adopted by the Elkins City Council. Fayetteville and Elkins entered into a sewer service agreement in 1981 that was for a forty year term. There were several areas in that agreement that needed to be strengthened and this contract strengthens those areas.

Alderman Cook: I think it is a good contract it covers our basis and Elkins at the same time and gives them a rate reduction. It protects us in some areas that we were not protected before. I certainly appreciate Steve Davis's hard work. I think what we finally ended up with is a good contract.

Alderman Ferrell asked about the contract language.

Kit Williams: We can't approve this contract tonight. Our sewer rates with Elkins, as our only wholesale customer were done by ordinance. When we do a sewer rate ordinance we have to give proper notice. We will check into the language and make sure we get it consistent. This

will come back to you as a change to our Code of Ordinance which does have a sewer rate for our wholesale customer and also this contract at the same time.

Bobby McGarrah, City Council member from Elkins: How long would it be before something would take place?

Kit Williams: I think there is a 15 day public notice. So once we do the public notice we can present the ordinance to the City Council, an ordinance takes three readings and then it will not go into effect for 31 days. I don't think it will be a long time we just can't pass it tonight.

Bobby McGarrah: Does the City of Elkins have to go through the same procedure.

Kit Williams: I don't know what procedure you all used. In our Code of Ordinances this is part of our sewer rates. Yours might just be a contract so you may not have to do the same things that we are doing.

Steve Davis: I think what Mr. McGarrah is asking is would they have to go through the same process for their sewer rates.

Kit Williams: If they change their sewer rates they would have to do the same thing.

Alderman Lucas moved to table the resolution indefinitely. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

Meeting Adjourned at 10:30 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City Council
Meeting Minutes
December 20, 2005**

A meeting of the Fayetteville City Council was held on December 20, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Lioneld Jordan called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Mayor Coody

Alderman Rhoads was absent during roll call.

Consider bringing off the table the City of Elkins Sewer Agreement

Alderman Cook gave the Nominating Committee Report. A copy of the report is attached.

Alderman Cook moved to approve the Nominating Committee Report. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

CONSENT:

Approval of the October 20, 2005 and October 27, 2005 Special City Council meeting minutes and the November 1, 2005 City Council meeting minutes.

Approved

Airport SAAG Grant: A resolution authorizing Airport Staff to apply for and accept a SAAG Grant in the amount of \$100,000.00 from the Arkansas Department of Aeronautics to fund a portion of the cost to remodel the Terminal Building at the Fayetteville Municipal Airport; and approving a budget adjustment recognizing the grant revenue.

Resolution 238-05 as Recorded in the Office of the City Clerk

Arkansas American Roofing Bid Award #05-83: A resolution awarding Bid #05-83 to Northwest Roofing Company D/B/A Arkansas American Roofing in the amount of \$30,977.89 for replacement of the roof of the Arkansas Air Museum Hanger Building; approving a project contingency in the amount of \$3,098.11 and approving a budget adjustment in the amount of \$18,012.00.

Resolution 239-05 as Recorded in the Office of the City Clerk

Equipment Resource Management - Asphalt Roller Equipment: A resolution approving the purchase of one (1) Medium Double Drum Vibratory Asphalt Roller from Equipment Resource Management in the amount of \$78,692.00 for use by the Transportation Division (Trails); and approving a budget adjustment.

Resolution 240-05 as Recorded in the Office of the City Clerk

North Point Ford - Police Patrol Sedans: A resolution authorizing the purchase of eight (8) Police Patrol Sedans from North Point Ford of North Little Rock at a total cost of \$164,928.00; and authorizing the Mayor and City Clerk to execute a waiver with the Ford Motor Company.

Resolution 241-05 as Recorded in the Office of the City Clerk

Washington County Emergency Operations Center: A resolution approving an Inter-Local Agreement and authorizing payment not to exceed \$30,000.00 to Washington County as the City of Fayetteville's share of the cost of establishing an Emergency Operations Center in Washington County; and approving a budget adjustment.

Resolution 242-05 as Recorded in the Office of the City Clerk

Hansen Software Maintenance: A resolution to authorize payment of \$57,987.04 to Hansen for 2006 Software Maintenance Fees.

Resolution 243-05 as Recorded in the Office of the City Clerk

New World Systems, Inc. Software Maintenance: A resolution to approve a three year Software Maintenance Contract with New World Systems, Inc. in an amount of \$64,777.40 for 2006.

Resolution 244-05 as Recorded in the Office of the City Clerk

ESRI Software Maintenance Fees: A resolution to approve the purchase of the 2006 ESRI Software Maintenance Fees in the amount of \$31,073.38.

Resolution 245-05 as Recorded in the Office of the City Clerk

Fayetteville/Springdale Area Transit Authority Dissolution: A resolution approving the dissolution of the Fayetteville/Springdale Area Transit Authority.

Resolution 246-05 as Recorded in the Office of the City Clerk

Lufkin Trailers – Noland Wastewater Treatment Plant Trailer: A resolution approving the purchase of one (1) trailer from Lufkin Trailers in the amount of \$19,600.00 for hauling sludge from the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$20,851.00.

Resolution 247-05 as Recorded in the Office of the City Clerk

Alderman Reynolds moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

PUBLIC HEARINGS:

Public Hearing for Monthly Sewer Rate Ordinance.

Vice Mayor Jordan opened the Public Hearing

Kit Williams: This was the ordinance that was read at the last City Council meeting, this public hearing is to give an opportunity for the citizens to express themselves if they have any feelings on this proposed rate ordinance.

There was no public comment.

Vice Mayor Jordan closed the Public Hearing.

UNFINISHED BUSINESS:

Amend § 51.137 Monthly Sewer Rates: An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months. *This ordinance was left on the Second Reading at the December 6, 2005 City Council meeting.*

Alderman Thiel 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.

City Attorney Kit Williams read the ordinance.

Alderman Cook: I would like to amend this. I have had quite a few phone calls about postponing the increase. While we all would love a break on our rates most citizens that I have talked to don't see that it is that much of a break and they are concerned about how this will affect the funding for the sewer plant as we go forward. I would like to amend this to leave out the postponement of the sewer rate increase.

Alderman Cook moved to amend the ordinance to leave out the postponement of the sewer rate increase. Alderman Ferrell seconded the motion.

Kit Williams: You would be amending Table E3 so it would read "monthly sewer quantity charge usage rates per thousand gallons for billings after December 31, 2005" instead of after April 30, 2006. Then you can delete Section 2 of the ordinance.

Upon roll call the motion passed unanimously.

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

Ordinance 4803 as Recorded in the Office of the City Clerk.

C-PZD 05-1610 (East Square Redevelopment): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District. ***This ordinance was left on the First Reading at the December 6, 2005 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The Street Committee did vote 4-0 in its last meeting to recommend the three street items to the full City Council. Those three included the lesser dedication of right of way on College Avenue, the construction of the pedestrian overpass over the alley and the construction of the parking deck over Mountain Street right of way as indicated in the Planned Zoning District plans. Staff would recommend a couple of amendments. The Solid Waste Department feels it is necessary to have a minimum of 16 feet clear for the overpass in the alley that would need to be included as a condition of approval a minimum of 16 feet clear from the alley to the bottom of the pedestrian overpass be maintained. Another condition of approval would be where there are sidewalks that are not located in the public right of way adjacent to the public right of way they should be in sidewalk easements and we would insure that those were procured at the time of development. Those are the two amendments that staff would recommend be added as conditions of approval to this project. With that we are recommending approval of this Planned Zoning District.

Alderman Reynolds moved to amend the ordinance to state that a minimum of 16 feet clear from the alley payment to the bottom of the pedestrian overpass be maintained to ensure adequate solid waste and emergency access. **Alderman Marr** seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams: My only question would be have you gone over this with the proposed developers and everything is fine with them?

Developer: Yes it is.

Alderman Ferrell moved to amend the ordinance to state all sidewalks located adjacent to the public right of way shall be located within a public sidewalk easement if they are not located within that right of way. **Alderman Marr** seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr 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.

City Attorney Kit Williams read the ordinance.

Alderman Marr: When we started with this project, the TIF and the tearing down of the building was to get a development that would have an incremental tax increase for the citizens. I appreciate the great PZD design and the fact that we are here tonight to do it. I fully support this.

Alderman Ferrell: I am inclined to support ordinances that help businesses and industry. Are there any further costs for this project to be born by the citizens of Fayetteville like traffic flow management, closing streets during construction or relocating utilities?

Richard Alexander, Developer: As a general proposition I don't think there are. We had an agreement with the City that there was a certain amount of money to be spent on the project. We are certainly not anticipating any more money than that. Any shortfall in that original amount that we had agreed to be spent, the developers of the project have agreed to pay those shortfalls and proceed with the project.

John Nock, Developer: The only exception to that would be if there are situations where the City would request us to do up grading. We have noticed that already, we are doing some utility work where there were some issues that the City needed to do some upgrading those things may end up being cost shared but anything that would be on the private side we are paying for that out of pocket. Anything that is going for the project that would go specifically to the private development we are going to pay for if there is something that would end up being a cost share that would be necessary for the City then those would be the exceptions to that situation. There will be some closings that will occur to the roads, they have been posted, and we have negotiated times with the City when those will be most appropriate for the business owners as well as the citizens. As far as College Avenue we will work with the State Highway Department. Anything we can do to limit any type of adverse action upon the citizens we are certainly trying to do.

Alderman Ferrell: I think that is only fair if the City asks you do so. Where are we on that original amount of money?

Steve Davis, Finance and internal Services Director: Everything that we were going to spend has been spent.

Alderman Ferrell: I hope that our administration and staff will show the same consideration for future developments that benefit our City and citizens and I think this will be beautiful when it is done.

Kit Williams: I have received a contract from the developers so they have now fulfilled one of the initial terms of supplying their architectural contract.

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

Ordinance 4804 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Stephens Inc. Contract - WSIP: A resolution approving an amendment to the Financial Advisory Services Agreement with Stephens, Inc., in an amount not to exceed \$20,000.00 to assist with the financing of the Wastewater System Improvements Project.

Steve Davis: The City when we started planning the financing for the WSIP entered into a financial advisory services contract with Stephens, Inc. because at that time we were anticipating using the Revolving Loan Fund that was then being administered by ADEQ. ADEQ subsequently became the Arkansas Natural Resources Commission. At the time that we headed down that path the interest rate that we were quoted was 3% which was significantly better than what the market was at the time. Subsequent events caused us to need to issue market bonds so that we could keep our sales tax alive until we got to the point that we would actually draw down on the Revolving Loan Fund loan when we get to the point to close that loan. Now as events have unfolded we have had to issue two market based sales tax bonds to provide project funds. One of them was to keep the sales tax alive; the other was so that we would be in a position to negotiate our procurement for the west side treatment plant. Under the Environmental Protection Agency rules we could not use their money except for a sealed bid procurement. In the bidding environment that we were faced with earlier this fall we did not think it was financially prudent to attempt a sealed bid procurement after our original sealed bid came out of the money. We have negotiated a contract with Brasfield and Gory for essentially \$60 million dollars; we have closed a third market sales tax bond issue that provides us with adequate cash to fully fund that construction contract as well as the other contracts we have let so far. At this moment we are examining what the best mechanism is for us to fund the remainder of the project cost that is currently estimated at around \$50 million. We cannot use sales tax backed bonds once we make this last loan agreement with the Revolving Loan Fund that is actually item fifteen on today's agenda. For us to precede forward we still need financial advisory services so that we will be assured that we are getting the least cost debt service for our citizens and rate payers.

Dennis Hunt, Stephens, Inc.: Thank you Mr. Davis, Vice Mayor Jordan and members of the Council. I prepared some comments and I think I will go ahead and share those with you to give

you a full flavor of what process has taken place. I think it is extremely important that you fully understand the history of what transpired from the year 2000 until today and how the evolution of the sales tax financing with the \$125 million for your wastewater facilities took place. In November of 2001 the voters approved a \$125 million bond issue that was to be secured by a $\frac{3}{4}$ cent sales tax. That bond issue that was presented to the voters in the authorizing ordinance as well as well as the ballot provided for two financing mechanisms to fund those. One was the State Revolving Loan Fund and the second was just traditional public bond issue. Now the original concept was that we were going to issue \$25 million in bonds under a traditional public bond offering and \$100 million under the State Revolving Loan Fund. The reason being the State would only commit to provide \$100 million associated with it so we proceeded forward on that basis. Now when the voters approved this sales tax, and I think this is critically important because it relates to something I will talk to you in a minute about. When they approved this sales tax under Amendment 62 of the Arkansas Constitution it says on the date of the election when a sales tax it approved user limits are established on that date and on the date of the election for the City of Fayetteville the usury limit was 4%. It is 4% of the average interest rate and no coupon and no maturity can exceed 4% or it violates Amendment 62 to the Arkansas Constitution. Let me distinguish for you a Revolving Loan Fund to the public bond offering because there are some fairly significant distinguishes to the two.

The Revolving Loan Fund through the State is basically a subsidized program through the Environmental Protection Agency where the Federal government puts in money and helps subsidize and drives down the interest cost associated with it for public propose to provide benefit to municipalities, in this case in the State of Arkansas. That particular program has what is basically a fixed interest rate almost like a home mortgage. You borrow for a certain number of years you pay the same interest rate in the first year of maturity of the principal that is amortized as the last year of maturity in which the principal is amortized. Secondly the Revolving Loan Program is a reimbursement program so that you borrow this money and then you don't get money paid back to you until you have actually incurred the expense the expense then is submitted to the State and the State then reimburses the City, so there is no invest earnings on any type of funds under the Revolving Loan Program. Third under the Revolving Loan Program as Steve just explained there are certain restrictions. Under the Revolving Loan Program the Environmental Protection Agency has certain restrictions in terms of procurement of services that are required in order to participate under the program. There are several other regulatory requirements but that is one of the key ones.

In terms of a traditional bond issue unlike a home mortgage a traditional bond issue each maturity has a different interest rate. The first maturity for year one lets say is 2.5%, year two is 2.6%, year three is 2.7% and then when we talk to you about well here is the average interest rate it is combining all of those but that is important to you. Secondly under a traditional bond issue the issuer gets all of the bond proceeds at the time of the closing so those bond proceeds come in and the issuer can invest those moneys for purposes of helping contribute to the cost of the project. Finally under a traditional public bond issue there are no requirements with respect to procurement or anything of that nature.

When our initial plan was approved by the voters as I said we were looking at issuing the \$25 million and then an additional \$100 million associated with it. In June of 2002 as Steve pointed out the City with the assistance of Stephens completed the first \$25 million offering and I think everyone at the time thought that is going to be the extent of the public bond offering and we are

going to proceed with the \$100 million from the State Revolving Loan Program. It was contemplated that the \$25 million would take care of the remainder of 2002 and take care of 2003 expenditures and then after that point in time the revolving loan would take care of 2004 and 2005 and the project would be complete. That was what was contemplated. Obviously we had delays that caused that not to occur but that was what was contemplated at that particular point in time. What occurred next was the City received notice from the trustee that the monies coming in from the sales tax revenues were going to be sufficient to pay off the \$25 million so if those monies came in and paid off the \$25 million under the State statute under the indenture on the financing, bond counsel advised that if it is paid off the sales tax will terminate so we did not have a lot of choice. So the City approached Stephens and discussed with us how much money could we issue and still be cost effective compared to the State Revolving Loan Program. We went through that process and we issued \$35 million in debt and that occurred in 2004. At that point in time it was believed that the \$65 million that was remaining under the authorization would be through the State Revolving Loan program and that is how the City would continue to finance it. As Steve pointed out then you went through the bid process on your wastewater plant and in August, 2005 Stephens was contacted by the City to explore the \$65 million. I think it is important to realize that when we were first contacted I will tell you and I have said this before to the Sewer Committee and others I was somewhat hesitant that it would be. I thought it would work but there would be negative implications associated with doing it just because of trying to restructure some of the existing debt, etc. The main purpose associated with that restructuring was to be able to allow the City to do negotiated procurement and that was the number one objective associated with it. We went through that process and we identified how to go about financing and somewhat to my surprise it was basically as I had characterized previously a wash, it was a cost neutral. It has certain benefits associated with it, certain cost associated with it but was pretty well cost neutral in terms of what was moving forward. We went to the Sewer Committee on August 25, 2005 and presented the financing plan and then presented it to the City Council on October 4, 2005, the bond issue, to issue \$92 million, \$27 million of that would refund a portion of the outstanding debt, \$65 million of that would be new money.

Really as I said there were three objectives, one provide the flexibility for procurement, two provide as much money as possible because obviously you have a short fall in terms of the amount of revenues that were available so you wanted to try generate as much as possible. Because quite honestly anything you can generate in sales tax is more cost effective than doing a long term revenue issue that was associated with it. Finally minimize the cost or actually reduce the amount of time in which the sales tax has to be outstanding in order to pay off the debt. Following completion of the financing documents and the 30 day referendum period, on November 1, 2005 we went into market. What transpired between October 1, 2005 and November 1, 2005 is about a 20 basis point increase in interest rates between that point in time. That 20 basis point interest rate reflects back to that 4% usury cap that I talked to you about earlier, that is when we started that 4% cap and it caused it to where you couldn't market the bonds to get the entire \$92 million, you had to reduce the amount of bond because as you can imagine if you have a fixed amount of revenue stream coming in the only way you can get the interest rate lower, because I told you the interest rates go up as you go further out, is shorten the bond issue thereby having adequate revenues to fulfill the debt obligation. So as a result we reduced from \$92 million down to \$72 million the amount of money. I will tell you this after having reflected on this if you didn't have the 4% usury cap you would have been better off doing exactly what the City is doing now because our analysis was based on the interest rate at the time that said it was more cost effective to do the entire \$92 million. You were comparing a

volatile market in the public market sector versus a fixed rate in the revolving loan. So it made sense for the City to do that. I will tell you that based upon where you are today I think you have a very cost effective way in which you have financed your wastewater system. I know the delays have cost you significantly in terms of project cost quite honestly the delays are probably beneficial in terms of the financing process that you went through. We believe that this particular approach is going to be very beneficial. My guess is under the sales tax you have mandatory redemptions in other words you pay off bonds with excess sales tax that comes in, my guess is that you will be under 3% interest rate associated with all of your debt so I think it was a very cost effective way to go about doing it.

I tell you all of this because I have read things about what we were doing. I think really the City as circumstances changed we were trying to be nimble enough to get you the most cost effective financing that was possible for the citizens of this community.

Alderman Marr: Tonight is the best public explanation that I have heard. The citizens feel like you went down one road and we changed to get out of the sealed bid process then we went back. When does it end, when I watched the tape of the Sewer Committee meeting I think your comment was if it changes again I will be back here telling you it has changed again. As a citizen we want to know when does it actually get issued and stop.

Dennis Hunt: Keep in mind that I don't think there will be any change with respect to the sales tax. When we visited with the Sewer Committee we were talking about two issues, one was the sales tax, you need to obligate yourselves and you need to go to the Revolving Loan Fund. My question was responding to well what about this other \$50 million that Steve made reference to earlier. I could give you a recommendation and I would hope that you would want me to tell you if it made more economic sense to do something different because market conditions change in the future and I will. That is why we are called advisors you don't have to listen to me but if the market changes and it is more cost effective for you to go a different route than what was originally recommended then I would feel very comfortable in making that recommendation to you.

Alderman Reynolds: I feel comfortable with Mr. Hunt I think he has done a good job for us.

Dennis Hunt: Basically this financial advisory agreement has nothing to do with the sales tax. That is over as far as I am concerned it is just dealing with the issues that are going to happen over the next 12 months or so. You are going to be looking at this additional \$50 million and it probably makes sense for you to go for that revolving loan and it may be that I will never get a phone call in terms of needing any assistance from the City as it relates to that financing. But if market conditions should change I suspect that they will call and that is really the purpose of this to provide you with that flexibility.

Kit Williams: I would like to say that I have worked with Dennis Hunt for over four years now and have found him to be extremely organized and competent. There is a lot of stuff that goes on behind the scenes in committees; every time one of these bond issues comes up we have numerous meetings. Dennis is really the one that is primarily organizing these meetings, making sure that we do everything in a timely manner and going through all these bond documents. I think he has done a very good job throughout the entire time that he has worked with the City that I have known.

Alderman Marr: None of my questions at agenda session or tonight are to imply that Mr. Hunt or Stephens are not a reputable company in fact I sat on the RFP committee that selected them. I believe they are the most qualified and the smartest in the market and I have a lot of knowledge about their firm. I do think it is important for the citizens who watch us come with an option flip to another come back to another have the explanation that we heard tonight. It doesn't always get there. The citizens don't always watch the Sewer Committee meetings either. I appreciate you explaining that tonight for the citizens on a project that is over budget. That is why I think it is important to be fully educating the public on it.

Alderman Ferrell moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 248-05 as Recorded in the Office of the City Clerk.

Fayetteville Municipal Property Owners Improvement District #12 – Belclaire: An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District #12 – Belclaire

City Attorney Kit Williams read the ordinance.

Jim McCord, Attorney for Petitioners: This matter is before you again because after the Belclaire Improvement District was established in September, a title error was discovered which required the filing of a correction deed and a new petition and then a new ordinance to establish the district to comply with the law. An abstractor's certificate has been filed certifying the petition is signed by all the record owners as required by law.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4805 as Recorded in the Office of the City Clerk.

Amend Chapter 159: Fees, UDC: An ordinance amending Chapter 159: Fees, Unified Development Code, Code of Fayetteville limiting certain building fee exemptions.

City Attorney Kit Williams read the ordinance.

Steve Cattaneo, Building Safety: We have a couple of exemptions in the ordinance right now that in my opinion are very broad and have lead to some abuse over the years. This brings them back to serve the purpose they were originally intended. There are still plenty of options available for people that need the exemptions and need the help with their permit applications or can't pay the fees to get some help in that aspect.

Alderman Reynolds: I think this is more or less housekeeping. We need to help the staff.

Alderman Ferrell: How many of these do we have each year?

Steve Cattaneo: Very few, it is not a money issue at all.

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

City Attorney Kit Williams read the ordinance.

Alderman Marr 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4806 as Recorded in the Office of the City Clerk.

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 Rupple Road and Persimmon Street adjacent to the Mountain Ranch Development; and approving a budget adjustment in the amount of \$577,453.00.

City Attorney Kit Williams read the ordinance.

Gary Dumas, Director of Operations: Based on the City Attorney's comments at agenda session we met with the developer this morning to talk about some options and to talk about what Mr. Terminella has provided in this cost share. One of the issues is that this is one of the largest developments, the overall preliminary plat anyway, one of the largest preliminary plats that the City has seen in its history and so the cost share for all the roads associated with it are quite significant, well beyond I think anything the City has ever seen before. I expect we will be seeing more of these in the future though. I think what has generated most of the discussion is the conflict between what was stated at the annexation a little over a year ago and what the City ordinances require as far as developer contribution, City contribution and building off site improvements. As you can see from the map Persimmon Street is about 3,300 feet about 1,200 feet of that is adjacent to the development and about 2,100 feet is in off site improvement. Mr.

Terminella dedicated a full 70 feet of right of way along that entire 3,300 feet. That is 35 feet more dedication that would normally be required by the Master Street Plan. The Master Street Plan indicated that street would have been shared between the Terminella property and the property owners to the north. So if timing had been appropriate or if Mr. Terminella had chosen he would have dedicated 35 feet, the other property owners when they developed would have dedicated the additional 35 feet. There is some compensation there for those off site improvements from Mr. Terminella. In addition the City Attorney passed out a memo to you which indicates that Mr. Terminella will dedicate without cost that quarter mile of Ruppel Road south of the school even though that is not required of this development today. That is 55 feet by a quarter mile that is approximately 1.1 acres. The 35 feet by 2,100 feet on Persimmon Street is about 1.6 acres. I am not sure if this is sufficient to address the Council's concerns but I think it begins to show that there is a quid quo pro here and I think this project is an ideal opportunity for the Council to at least begin thinking about road impact fees. What has happened here is we have a very small development within an 800 acre development. The 800 acre development is going to have significant road impacts. What we are talking about today is a very small piece of that overall development. Ultimately I think that if we had another mechanism rather than City participation in off site improvements like we have today, we don't have a real mechanism to recover all of those future expenses that are going to be associated with this 800 acre development. Where we are today is we have a cost share agreement before you which is in accordance with the current City ordinance. That doesn't take into account all the things that were said previously at other meetings but there has to be some type of a rational relationship between the offsite improvements and the impact of the current proposed development. Hopefully the agreement on Ruppel Road south of the school and those 35 feet on Persimmon Street will be sufficient.

Alderman Lucas: How much did you say the easement was that he was giving on Persimmon?

Gary Dumas: 35 feet by about 2,100 feet. He gave 70 feet and there is an improvement on that east 2,100 feet of the two lane road. That is the part that the City is cost sharing in for the northern 8 feet of that pavement.

Alderman Lucas: Will Mr. Terminella have to give the City any money when he develops the rest of it for this road?

Gary Dumas: Not for the perimeter streets.

Alderman Lucas: I know we have done that in the past.

Gary Dumas: It kind of depends on what your frontage is.

Alderman Lucas: This is different because this is just a portion of an 800 acre development that is going to impact on those roads. That's why I was wondering if there is any thing like that that we could work out.

Gary Dumas: I think the solution is something we don't have at this time which is road impact fees. I don't think there is a way existing within the ordinance to recover those kinds of expenses.

Alderman Lucas: I understand that Mr. Terminella is giving easements but the bottom line is we need the road. Are we setting ourselves up for under minding any future transactions before the Council because we have a lot of representatives that come to the meetings that represent other people and they can negotiate agreements and things like that. If a developer can come back later and say that is not what he wanted done are we setting ourselves up for a problem?

Kit Williams: That is why I drafted a Bill of Assurance form for developers to use. Probably that night that this statement was made by his attorney we should have said let's put that down in writing and get a Bill of Assurance on that that is absolutely enforceable. It is always better to do that. Even though we questioned his attorney and his attorney seemed very clear that he was going to construct the road I think that what we need to do in the future is if someone makes an offer out of the blue we need to make sure we get it clearly down in writing exactly what they mean.

Alderman Lucas: So it is going to impact our negotiations with people that come before the Council in the future.

Kit Williams: We are not supposed to be negotiating that kind of stuff; this is stuff that they are supposed to offer. But if they offer it we need to get it in writing and get it signed. Then I don't think we would be in a situation like this.

Alderman Lucas: Should we require that whoever has the authority to make the statement be present at the meetings?

Kit Williams: I think that his representative had the authority to make the statement. Mr. Terminella was in the room, that was his attorney representing him and I think he is bound by what his representative says especially if he does not get up and say that is not what I want. I do think it is better in the future if someone makes an offer like that we need to stop them and have them put it in a Bill of Assurance.

Gary Dumas: I need to correct myself Mountain Ranch is approximately 470 to 480 acres instead of 800 as I stated.

Alderman Thiel: In the August 3 minutes I asked the City Attorney if they do make improvements on their side or if both sides are going to be improved and you state as long as it is in the rough portionally 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. At that time I think I understood you to say this is something that they could do, they said they would do, I was questioning Persimmon. That is still the same right?

Kit Williams: If you look at the entire 800 acres then I think that could justify that kind of expenditure. We had just been offered that. In the absence of that offer that was made by his attorney with this amount of acreage that is being developed I don't think we could force them to do that and build both sides of the road. There is a landowner on the other side of the road that should build his half of that collector when they develop. That land owner shouldn't get a free ride. The only reason there was any talk about getting a free ride is because the offer was made by his attorney saying that they were going to build the street.

Alderman Ferrell: One thing that sticks in my mind about this is there any one developer that has done the whole road in any one subdivision. It looks like Mr. Terminella is coming back to remedy the situation. I think those are the things we need to think about.

Alderman Marr: The additional 35 feet of right of way was that a new dedication since our original vote or is that what was originally offered also?

Gary Dumas: It was originally offered.

Tom Terminella, Developer: I want to thank the majority of you folks that have taken the time to meet with me over the last few weeks on this issue. I am not here to be anything but constructive and move forward. I want to make some points of clarification and some points of fact as I remember it August 3, 2004. I remember it very clearly. That evening we were here on an annexation and a zoning request. I had a representative that evening speak to the issue, it wasn't building, it wasn't engineering, it was the word that was used repeatedly three different times was construct the road improvements to Master Street Plan standards before we ask for a building permit, I am not here tonight asking for a building permit. I am here tonight to try to regain some of my public integrity on this issue. I had heard Council here that implied that we would construct the improvement, as a developer in my shoes I have \$13 million worth of cost share improvements with five other cities that we are constructing right now. So just for a minute, ten seconds if you will think and put yourself in my shoes I will take 99% of all this blame because I did not get my tail up here and articulate and ask and call for the question. I will take the blame that it was a gray area, it was an area of uncertainty and I am sure the perception of most of the folks on the Council assumed that we were constructing, civilly engineering, providing all the right of way and paying for the improvement, I am sure of that after watching last weeks agenda session on TV. But if you could for a minute in the spirit of trying to wrestle with these big issues these municipality improvements, these water and sewer and street improvements for a minute. When a municipality comes to us and says we will waive the bidding, we will do a cost share if you will construct it because it is 30 cent dollars to us that is what I was assuming sitting out here. I will take the blame for not getting my tail up here and defending it and asking somebody, collectively staff, Council, anybody, if it so abnormal for that to be offered why didn't somebody call for the question, why didn't somebody say does this mean you are going to pay for and construct, give all the right of way and civilly engineer this. Well I am not going there. I am here tonight willing and able to construct the improvement what is afforded to me under ordinance. I will give all of the right of way for Persimmon, that's twice the amount of right of way that is normally required for a developer coming through, I will pay for our one lane, curb, gutter, sidewalks, streets, this that and the other that's what's being recommended. I have already given the necessary right of way for the intersection of Ruppel and Persimmon. I have already given the necessary right of way to swing Ruppel onto our ownership, for the school to achieve their development plan. I stand willing to pay for the lion's share of the civil engineering, limiting the City's exposure to \$45,000. It is somewhere in the neighborhood of \$200,000 to civilly engineer all of this. At the defense for everybody here the alignment of Ruppel, the corridor section, the cross section of that road has been civilly redesigned three times this calendar year. We were asked collectively to start in the northeast corner of the farm, we have 472 acres, and the thing grows every day. That is how many acres of ground that we have. We have other points of access with four other areas to get utilities we certainly didn't have to start here. We started here with the spirit of working in tandem with the district and the vision of what the City, staff and I am assuming my ward representatives had in

their mind, which is try to understand the road section, try to understand the alignment and here again at the risk of being repetitive I apologize for the misunderstanding. I am sorry that is was spoken, I'm sorry that I have been on the front page of the papers several times over the last few weeks because that is something that I don't run after and I don't respond to. The fact is we stand willing, ready and able to construct the improvement with a normal understanding if what is afforded to us under ordinance. This is my home and that's my back yard, I don't like it anymore than you do. I am not going to sit up here and make excuses for others, I will take the blame, I didn't jump out of the pew and get up here and say well Mr. Jordan or well Ms. Lucas because you really spoke to the issue that night and I wasn't amused in the way that it was articulated. As you can see this evening I am here speaking on the behalf of myself and since that evening I have allowed no civil or no Council to speak on my behalf because I don't like being put in that envelope either. With that being said that's how I perceived it I am sorry that others assumed that when the word construct was spoken three times that was perceived and assumed that we would shoulder the burden 100% of all of it. That's my regret, that's my simple regret but this evening we are willing to do what's right in our mind which is to do all that we can. I have not been up here asking for water line cost shares, which ultimately we know we are going to need the capacity of that under ordinance, I could be here asking for the lion's share of that money that is not the spirit of which I work.

This ordinance was left on the First Reading

OMI Contract Approval: A resolution approving Amendment No.13 to the contract with Operations Management International (OMI) in the amount of \$4,674,829.66 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006.

Alderman Ferrell: Periodically are there RFP's or bids for a contractor to do this?

David Jurgens, Water and Wastewater Director: There is an ongoing contract with this company it was based off an RFP that was performed in 1994 that could be extended for a period of up to 15 years. We have now extended that through 2008 which is 14 years there is one more year of possible extension. There is intent within the next few years to go forward with another RFP and there is a mandatory requirement to go forward with another RFP.

Alderman Thiel: I don't see how we could have a better firm doing this job for us. We always get a nice rebate at the end of the year and they are so good to work with. I think they do a very good job and I appreciate their work.

Alderman Reynolds: This has been through the Sewer Committee and approved there.

Alderman Cook moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 249-05 as Recorded in the Office of the City Clerk.

Environmental Consulting Operations, Inc. Contract: A resolution approving an amendment to the engineering contract with Environmental Consulting Operations, Inc. in the amount of

\$579,343.00 for construction and post-construction phase services for the entire Wastewater System Improvement Project (WSIP); and approving a contingency of \$20,000.00.

David Jurgens: This has also gone through the Sewer Committee and was passed unanimously at the Sewer Committee. This is the environmental consultant construction phase services and post construction phase services it will go through the entire wastewater system improvement project, west side lines, east side lines, west side plant, east side plant. Post construction clean up items, the pump stations and the lines are abandoned and make sure that we meet all of the environmental regulations. ADEQ is doing a great deal of inspection in this area and throughout the State and they are finding very quickly that we have one of the best firms that are out there providing watch over for us. They did all the construction documents the specifications for all of the construction throughout the entire WSIP and they will provide an excellent service and will keep the City out of the potential hot water that is out there and ensure that we do what is absolutely the best for the environment.

Alderman Reynolds: How long has this firm been in business?

Bruce Shackleford, Environmental Consulting Operations: I started the company in 1991 and so we are going into our 15th year. Before that I was branch manager of EnviorMed companies an environmental consulting firm and laboratory based in Louisiana and before that I worked for DEQ at the time it was called the Department of Pollution Control and Ecology, I worked there for nine years.

Alderman Marr: Could you outline what protections we have if their work brings us into some type of environmental issue that they don't catch, are we protected through insurance or other means on this contract.

Davis Jurgens: We are protected through having approved Best Management Practices both within the contracts and within the inspection process. By following Best Management Practices and inspecting by them and requiring that the contractors meet them we are then meeting all of the regulatory requirements. If the contractors do not meet those regulatory requirements the contractors are then responsible to the City for not meeting those requirements. The agency that would make the error if there was one would be the contractor doing the work. We have both the inspectors from the designing engineers and the inspection from ECCO to document those and then they will provide that list of potential error or infractions which would then go directly to the contractor in the monthly meetings. Then if those are not met then the contractor is in breach of contract. So we have that level of security from this and the Best Management Practices that have been approved by the State. The contractors hold the responsibility by contract and the Best Management Practices are approved by the State and by the Corp. This gives us all reasonable and professional oversight and meeting all Best Management Practices that are required by both the State and the Corp which gives us that protection because we are meeting every requirement that has been placed upon us to the best of our ability.

Alderman Rhoads: If a contractor that is responsible for one of the things that is described can not pay for it because he doesn't have the money or goes under then how is that paid for?

David Jurgens: As with any contractor that goes under, as you put it, we would then resort to the bonding company. And if a contractor is not meeting the performance and is not meeting the

specifications if he continues to not do that for more than a month then we would resort to the bonding company if he starts falling behind, etc. We have done some of that in the past, I've had one contract that did happen on and the bonding company did come in and pay money for the resurrection of the project.

Alderman Rhoads: And the bonds are sufficient to cover.

David Jurgens: Yes sir.

Alderman Reynolds moved to approve the resolution. **Alderman Ferrell** seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 250-05 as Recorded in the Office of the City Clerk.

ADM 05-1848 Vacating A Utility Easement: An ordinance approving ADM 05-1848 for property located at the southwest corner of St. Charles Avenue and Watson Street, vacating a utility easement as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the project.

Alderman Lucas: How long can this go on?

Jeremy Pate: It is really up to the City Council. It has been indicated to me they are ready to begin construction. It looks like it will be March when they start construction of this project.

A discussion followed on the location.

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

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-1. **Alderman Thiel, Cook, Marr, Rhoads, Ferrell, Lucas and Jordan** voting yes. **Alderman Reynolds** voting no.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. **Alderman Thiel, Cook, Marr, Rhoads, Ferrell, Lucas and Jordan** voting yes. **Alderman Reynolds** voting no.

Ordinance 4807 as Recorded in the Office of the City Clerk.

ANX 05-1811 Summer Resources: An ordinance annexing that property described in annexation petition ANX 05-1811 for property located north of Highway 16E, north of Deerfield Way, containing 3.75 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Staff is recommending approval.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-1. Alderman Thiel, Marr, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook voting no.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Thiel, Marr, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook voting no.

Ordinance 4808 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I think this is going to be an enhancement to the area to the north of the existing church.

Thad Kelly, Architect with Cromwell: Gave a brief description of the project. He stated they want to improve the corner of College and Dickson this is a planned development so the church as they have funds available will be able to do this in phases. It is about a nine year project.

Alderman Marr: This is a concept PZD so the level of detail that it seemed to me that the Planning Commission was struggling with wanting on some aspects of this would not have been offered in this particular PZD program as I understand it.

Jeremy Pate: I think that is a fair assessment.

Alderman Marr: The concern that I had as I read the Planning Commission minutes is that there were additional phases in this plan that included a site for a parking deck. I was thrilled with the concept of a parking deck being offered in a long term plan for this particular church. It concerns me, it looks to me that the rationale to pull the parking deck out was that it was 20 years out and we don't want to bind future Planning Commissions. But the issues that were being questioned wouldn't necessarily be handled in a concept PZD anyway that bound a Planning Commission. The concern that I have while the church is excited about offering a parking deck today just as the Planning Commission might change in 20 years, the church might change in 20 years. I would love to get their commitment on the parking deck that they offered. It concerns me that the Planning Commission would remove that from this plan when it is a part of what we are trying to get established downtown and when parking is such an issue.

Jeremy Pate: There are some issues that would have to be addressed with the master development plan and concept plan. A height limit would have to be established and our current ordinance does not require commercial design standards for any institutional type structure, churches are not subject to commercial design standards. I think the concern by the Planning Commission was that there was very little thought given to what the parking deck would look like. We encourage them to have a parking deck in the application. I think the Planning Commission would be willing to see a parking deck that is still a potential for the church without having to come back through their planned zoning district.

A discussion followed on building a parking deck.

Alderman Marr: So the items that would have been needed for the parking deck discussion would have been height and what else?

Jeremy Pate: The potential for a liner building, another use on the front of the parking deck so that it would not be open, not establishing a design standard for that particular phase of the development. So a phasing development standard and a height established for that parking structure.

Alderman Ferrell: Do you have an idea how far down the road the parking deck may come?

Thad Kelly: The church anticipated it within the next 20 years depending on mass transit and different things that may happen with the City and with the density of the City and different things.

A discussion followed on the proposed parking deck.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: How many parking spaces are there currently for the church?

Thad Kelly: There are 167 spaces that are on site.

Alderman Cook: Currently.

Alderman Marr: Before this design. How many exist today?

Thad Kelly: I don't have that count; pretty much it is almost a swap.

Alderman Marr: If we could get that number.

Thad Kelly: Yes sir.

Alderman Cook: What will be the use as this moves forward with that Golf McNair building and that infill. Is there going to be an increase use in that area? Are we going to see more impact through the week or on weekdays than would normally?

Thad Kelly: No, all their activities are on Sunday and Wednesday evening. They are currently using the Golf McNair building as classroom space. We are adding onto the wings on either side of the existing building to capture where there is some parking space right now so we can use it for classroom space. We are adding onto the back of it. A church is limited by the number of pews it has and this church has less than 950 seats due to the remodel they are doing.

If the right of way from the City's Master Street Plan is not reduced we need to tear down and I guess you will have to proceed with the condemnation proceedings because 20 to 22 feet of the existing sanctuary will have to be removed for that right of way to stay where it is proposed. We would rather it be reduced back to where it is.

Kit Williams: Isn't that one of the conditions of approval?

Jeremy Pate: It is not, that's because we don't have a survey document to know the exact right of way. It is part of the conditions and part of the Planning Commission determination that we would recommend in the future that if the Master Street Plan changes that this particular property would be taken into account. So it is very likely that this developer would not have to come back to the City Council it would take place through the overall review of College Avenue.

Kit Williams: Certainly we would not have the right to attempt to make them dedicate land which they have buildings on.

This ordinance was left on the Second Reading.

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.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: This shows residential but refers to retail space I am confused about that.

Jeremy Pate: It is a mixed use. The top floor would be residential, the first floor would contain one residential unit and the rest of it would be a mixture of commercial spaces, retail and office space. Jeremy gave a brief description of the project.

Alderman Marr: The curb cut on 265 is what distance from the other curb cut on 265 where the apartments are?

Jeremy Pate: To Coy Kaylor drive it looks to be approximately 300 plus feet.

Alderman Lucas: Will this access to Joyce Street be through the parking lots or will there be a street there?

Jeremy Pate: It would be through the drive through the parking lot.

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

City Attorney Kit Williams read the ordinance.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion failed 4-4. Alderman Rhoads, Ferrell, Lucas and Reynolds voting yes. Alderman Thiel, Cook, Marr and Jordan voting no.

This ordinance was left on the Second Reading.

R-PZD 05-1797 Bungalows at Cato Springs Road and Cline Avenue: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1797, Bungalows at Cato Springs, located northwest of Cato Springs Road and Cline Avenue, west of 71 Business/South School Avenue, containing approximately 5.52 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: The developers of this project made a major effort to get with all the neighbors that had concerns and make sure that they were satisfied. I think it is a good project and I am very supportive of it.

Alderman Reynolds: Everybody that I have talked to in the area are very excited about this.

Alderman Jordan: That is the area that I live and I think it is a very good project.

Alderman Marr: I noticed a traffic study was not requested by City staff. I am trying to understand when you all do and don't request certain aspects of this plan.

Jeremy Pate: As a rule of thumb and we have discussed with the Planning Commission as well when you are approaching developments that there is obviously inadequate infrastructure, intersections that will likely need improvement and when the improvements that could be born by the applicant in the nature of the development could be required of that development to improve those intersections with off site improvements. That is typically when we would look at recommending the applicant to commission a traffic study. Most residential developments that we see that we require a traffic study are approaching 100 units.

Jeremy gave a brief description of the project. A discussion followed on the building materials that will be used in the project.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-2. Alderman Thiel, Rhoads, Ferrell, Lucas, Jordan and Reynolds voting yes. Alderman Cook and Marr voting no.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4809 as Recorded in the Office of the City Clerk.

R-PZD 05-1798 DePalma Addition: A ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1798, DePalma Addition, located at the south end of Anson Street, containing approximately 10.04 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: Are we just doing a portion of this now?

Jeremy Pate: The larger project has been approved by the Planning Commission, 101 lots that would access Crossover Road this was included as part of that preliminary plat and it was indicated it would be brought back as a Planned Zoning District at the time of submittal. This is a concept plan it reduces the density from 4 units per acre to five lots on the ten acres. The plan is to access these five lots through Anson Street.

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

City Attorney Kit Williams read the ordinance.

Tom Hennelly, H2 Engineering: Initially there was 120 acres of property owned by the DePalma estate joined at the corner, 80 acres of it we brought through as a residential subdivision. This 40 acres that remained 30 of it was to be donated to the Parks Department and become part of the Sequoyah Preserve. The additional acres remained with the DePalma family and this is their request to have this property zoned this way. Their intention is to allow this property to be divided when we bring the preliminary plat back through into a maximum of five lots, I think they are planning on using these lots for members of the family to build homes. They may or may not do that, they may sell them. It is zoned RSF-4 right now it could have a number of homes on it.

Alderman Lucas: Who is dedicating the park land?

Tom Hennelly: It is kind of joint venture. The small two acre parcel that is being dedicated was what was required with the 101 lot subdivision. The remaining 28 acres is a joint donation between the Barber Group and the DePalma family.

Alderman Thiel stated she is pleased with this and she thinks this is going to be a really great project.

Alderman Cook asked about the nine minute response time through the emergency access on the back.

Fire Chief, Tony Johnson: It is what it is. That is what it measured out to be. This does not take into account the emergency access.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4810 as Recorded in the Office of the City Clerk.

Amend § 97.070 Lake Recreation Fees: An ordinance amending §97.070 of the Code of Fayetteville to clarify permitting requirements for the recreational use of city-owned lakes.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: This is just a housekeeping item.

Connie Edmonston, Parks and Recreation Director: There is inconsistency in the wording. Currently the way it states each person that is 16 years of age is required to purchase a fishing permit. When they purchase a boating permit they are also purchasing a fishing permit. The boating permit goes with the occupant but it did not address the people that were going in the

boat to go boating or fishing. The way it reads now if someone wanted to go boating with someone that had a boat they would have to pay \$6.00 to go boating or fishing. This new wording would allow them to pay \$3.00 to go boating or fishing.

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

City Attorney Kit Williams read the ordinance.

Alderman Marr 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4811 as Recorded in the Office of the City Clerk.

2005 Re-Budgeting Request: A resolution amending the adopted 2006 budget to re-authorize funding from 2005, in order to retain project funding for identified, scheduled and on-going Capital Improvements.

Kevin Springer, Budget Manager: This is the re-appropriation of the remaining capital project budgets. These capital projects have been previously approved by the City Council. For the vast majority of these projects the approval of the re-budget will not be the last time you approve work on the capital projects. The various engineering and construction contracts will be presented to you at future dates.

Alderman Marr: We had some outstanding items that will be coming forward later. Are there any items like that that are operational in nature that would be impacted in any way by what we approve in this capital number? If we were going to cut expenses somewhere to pay for more items if that became an issue would we ever be looking at any of the items on this list?

Kevin Springer: No. The items on this list are capital most of them coming out of the sales tax. There is some money in General Fund that we are re-budgeting but that is coming out of the Wilson Springs funds. Of the capital projects that we are asking to be re-budgeted there is \$500,000 in the General Fund that is for Skull Creek Trail and that is coming out of the Wilson Springs money.

Alderman Marr moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent during the vote.

Resolution 251-05 as Recorded in the Office of the City Clerk.

The following was added to the agenda:

City of Elkins Sewer Rate Contract: A resolution to approve a contract with the City of Elkins concerning their sewer rates and other matters.

Alderman Cook moved to remove this item from the table. Alderman Ferrell seconded the motion. Upon roll call the motion to remove from the table passed 7-0. Alderman Rhoads was absent during the vote.

Alderman Cook moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 252-05 as Recorded in the Office of the City Clerk.

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.

Steve Davis: I had a meeting with the Arkansas Natural Resources Commission and they requested a little more time to review the loan documents at the \$20 million level.

Alderman Cook moved to table this ordinance until the January 3, 2006 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion to table passed unanimously.

This ordinance was tabled to the January 3, 2006 City Council meeting.

PUBLIC HEARINGS:

Vice Mayor Jordan Opened the Public Hearings

Dan Nelson Revocable Trust Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Dan Nelson Revocable Trust.

David Jurgens: We hope none of these go to court and we believe there is a high chance of all of these being resolved without that. Our objective is not to go to court on all of these issues being brought forward. However in order to continue forward progress with the project this step needs to be made to meet the Arkansas Natural Resources Commission requirements of having either obtained the easements or having this approval done before we can advertise the projects and proceed forward. This is not the end of negotiations. Negotiations on these easements

started back in March. Several of these are already in process there are people that are still awaiting appraisals and there are several folks that we have met with this week. In order to move forward with the project we have to go through this process.

Kit Williams: What happens in any condemnation is that the City is authorized to file a condemnation in court and to pay into the court what we believe is the fair market value of the easement that we need to gain possession of so that this wastewater sewer line can go forward. Once we have paid that money in the person who owns the land is allowed to withdraw that money and also the court will grant to the City the right of possession, not ownership at that point in time, but possession. Then it will be scheduled for trial and if we can't have any resolution the trial would determine the amount of money the City should pay. This just gives us the right to go to court and gain possession of the land so we can go forward with the project after we pay the fair market value of the easement to the court.

David Jurgens: On this condemnation they are attempting to get an appraisal and I believe they are still waiting on that appraisal.

Alderman Thiel: If this individual is in the process of getting an appraisal and we move forward with this is there an additional cost associated to them?

Kit Williams: As David said this is not the end of negotiations. This will allow me to begin the process of obtaining possession as required.

David Jurgens: The drop dead date will be at least 30 days and probably much more than that. We would have to have this completed before we can award a bid.

Alderman Marr: Is this normal protocol in a project this size that we would look at six or seven condemnations?

Kit Williams: This is obviously the biggest project the City has ever undertaken. So we really don't have anything to measure against. This is for all the work on the west side so it is not that unusual.

Alderman Rhoads: From what I know of the City of Springdale and their efforts to widen Huntsville Avenue they are looking at a similar number so I don't think this is really unusual. I think it is very prudent for us to be doing what we are doing tonight to move the process along.

Alderman Lucas: I don't like to do this either but I think we have delayed long enough on this project so if Mr. Williams thinks this will help move it along then I think we need to go ahead.

Alderman Thiel moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 7-1. Alderman Thiel, Cook, Marr, Rhoads, Lucas, Jordan and Reynolds voting yes. Alderman Ferrell voting no.

Resolution 253-05 as Recorded in the Office of the City Clerk.

Alderman Marr moved to reconsider this resolution. Alderman Cook seconded the motion. Upon roll call the motion to reconsider passed unanimously.

Alderman Marr moved to amend the resolution to remove the purchase price and to state to pay into the registry of the circuit court just compensation. **Alderman Cook** seconded the motion. Upon roll call the amendment passed unanimously.

Alderman Marr moved to approve the resolution. **Alderman Thiel** seconded the motion. Upon roll call the resolution passed 6-2. **Alderman Thiel, Cook, Marr, Rhoads, Lucas** and **Jordan** voting yes. **Alderman Ferrell** and **Reynolds** voting no.

Resolution 253-05 as Recorded in the Office of the City Clerk.

Barbara J. Heyliger Trust Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by the Barbara J. Heyliger Trust.

Mr. Heyliger: I think this is premature in our case. We had a problem in the way they were cutting our property in half and the route they were taking on the line. They have redrawn the line and we are satisfied with that. There are still some other things we want to settle price is one of them because they are taking 1,400 feet of our property and running the entire length of it. We were gone the month of November.

Vice Mayor Jordan: We certainly want to be fair.

Alderman Lucas: Can we table this while they work this out?

Alderman Reynolds: It would seem like they would need more than 30 days if they just served them on November 8. That is pretty short notice.

Alderman Rhoads: The resolution is to authorize the attorney to seek that and from a timing stand point if we pass this resolution tonight then how much time do the Heylinger's have to negotiate before you would file something?

Kit Williams: After listening to David it does not sound like I will be filing anything until pretty much the last minute. I want to be sure and have the orders of possession in hand but at least 45 days before I would be filing anything.

David Jurgens: There is at least 45 to 60 days of an open negotiation time period. If we were to table this it would mean we would not be able to advertise that project until after the resolution would be passed or we have a signed easement. This isn't the end of negotiations by any means. I recognize that you all have been out of town and we did not know an address to send this to you. This is not at all the end of negotiations but if we do table these that will delay the project and will delay the advertisement for the project. Passing the resolution doesn't mean it is going to court. We still have ample negotiation time to talk to people.

Alderman Rhoads: Is 45 days sufficient for you sir?

Mr. Heyliger: I hope it will be.

Kit Williams: I would encourage you to talk with Mr. Jurgens.

Alderman Thiel: We are setting the compensation price in this resolution does that not limit the negotiation ability as far as the price?

David Jurgens: As I understand it that compensation price is the first offer and that is the price if we were to take it to full condemnation.

Kit Williams: I would think it would be better to leave that more open and say pay the reasonable value as just compensation. Amend the resolution to remove the amount.

Alderman Thiel moved to amend the resolution to remove the purchase price and state to pay into the registry of the circuit court just compensation. Alderman Cook seconded the motion. Upon roll call the amendment passed unanimously.

Alderman Ferrell moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 254-05 as Recorded in the Office of the City Clerk.

Alderman Reynolds: It says a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Barbara J. Heylinger. We took the price out of it but this gives you the authority so where is their bargaining power? It is our way or the highway.

Kit Williams: Supposedly a city always has that power but obviously public officials and city employees will attempt to work these things if possible. Condemnation is always the last resort but sometimes it is the proper resort if negotiations fail, if we don't do it we can get hung up and have one person not approved and then we won't be able to build a pipeline and we won't be able to build a plant because one person is sitting there saying my land is worth \$100,000 and you only want to offer me \$10,000 for it. Condemnation is occasionally necessary. Hopefully in this case it will not be necessary a single time I will do my best to settle every one of these.

Alderman Rhoads: Are we using a right of way agent or are we doing this inside.

David Jurgens: On all of this land we have appraisals by an appraiser that was performed this year. The engineer is preparing the documents based on the design that was already been done; the engineer is then developing the right of way and easement requirements based on the City's guidelines for easement requirements for both temporary and permanent easements. Those documents are being sent to our right of way agents who are then reviewing it. We are using in house right of way agents to confirm the easements and write up the easements but the engineers surveyors are the ones doing the initial description. The negotiator is an outside contracted negotiator. He works for a company that is based out of Tulsa.

Lori S. Taylor Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Lori S. Taylor.

David Jurgens: We have settled this one. It can be removed from the agenda.

Alderman Marr moved to table the resolution indefinitely. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled Indefinitely.

MSB Properties, LLC and Nanchar, Inc. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by MSB Properties, LLC and Nanchar, Inc.

David Jurgens: They are waiting on an independent appraisal.

Alderman Thiel moved to amend the resolution to remove the purchase price and state to pay into the registry of the circuit court just compensation. Alderman Cook seconded the motion. Upon roll call the amendment passed unanimously.

Alderman Rhoads moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed 7-1. Alderman Thiel, Cook, Marr, Rhoads, Lucas, Jordan and Reynolds voting yes. Alderman Ferrell voting no.

Resolution 255-05 as Recorded in the Office of the City Clerk.

Lindsey, Sexton, and J.W. Reynolds Lumber Company Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by James E. Lindsey and Nita V. Lindsey; Giles A. Sexton and Elsie D. Sexton; and J.W. Reynolds Lumber Company; all as tenants in common.

Alderman Rhoads moved to amend the resolution to remove the purchase price and state to pay into the registry of the circuit court just compensation. Alderman Thiel seconded the motion. Upon roll call the amendment passed unanimously.

David Jurgens: This is on Paradise Valley Golf Course we met with these folks this afternoon with a counter offer. They are taking that counter offer back to the owners. Some of the owners are out of town so it may be a few weeks on this. They were waiting for an independent appraisal and that is what they brought in today.

Alderman Ferrell: I did visit with one of the property owners on this. I hold the principal of private property to be one of the first and foremost rights of citizens. I understand this is a resolution to empower the City Attorney and I know we have to move forward with these acquisitions however they are moving fast.

Alderman Rhoads moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 256-05 as Recorded in the Office of the City Clerk.

Commonwealth-Goshen Theatre Corporation Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Commonwealth-Goshen Theatre Corporation.

Alderman Rhoads moved to amend the resolution to remove the purchase price and state to pay into the registry of the circuit court just compensation. Alderman Ferrell seconded the motion. Upon roll call the amendment passed unanimously.

David Jurgens: This location is west of I-540; these folks were some of the last that were notified due to the alignment that crossed I-540 and the alignment east of I-540. This one does have an alignment question. This one has an adjacent forest and wetlands it is in the headwaters of the Arkansas Darter it is a fairly sensitive location and a fairly fixed location. We already moved it as much as possible to keep it out of the usable area of the property.

Alderman Reynolds: So the problem on this one is location?

David Jurgens: I honestly believe the location is the best that you can possibly get. I think it is as much a compensation issue as it is a location issue. The letter they sent to us last week said it appeared the location was not immediately adjacent to the property line due to a stand of trees that is along the property line. It would be easier and cheaper for the City to lay the sewer line directly across the property. That is not what we wanted to do because we did not feel it was best for the property owner. We did put a jog in it to get it as close to the property line as we could without getting into the forest and wetlands and to reduce the potential damage to the property.

Alderman Reynolds: Are we coming down the north or south side?

David Jurgens: We are actually crossing on the south side immediately north of the stand of trees.

Alderman Rhoads moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed 7-1. Alderman Thiel, Cook, Marr, Rhoads, Lucas, Jordan and Reynolds voting yes. Alderman Ferrell voting no.

Resolution 257-05 as Recorded in the Office of the City Clerk.

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.

Alderman Rhoads moved to amend the resolution to remove the purchase price and state to pay into the registry of the circuit court just compensation. Alderman Cook seconded the motion. Upon roll call the amendment passed unanimously.

David Jurgens: This is in the vicinity of Popular Street and Chestnut Apartments. This is the only one on this particular sewer line. Of all of them this is the easiest to delay a little bit. This is an alignment issue. I don't have an objection to tabling this for a couple of weeks, if we do

change the routing that will require an additional review by the Arkansas Department of Health which could take up to 30 days.

Alderman Ferrell: Do you see the possibility for an alternate route here?

David Jurgens: It has been a couple of years since I have walked that area. I know that the alternate route that the owner prefers is putting it very close to Skull Creek and it is a tight area between the existing apartment and Skull Creek. That is the only route that I can even picture in my mind. I have been referring most of those routing questions to the designing engineers because they went through all the different alternative routings before they did the design. Our preferred solution here was to go adjacent to Skull Creek in every case. It is a more direct line, it would cost less to build as a rule and it follows by gravity better but in this case the engineer felt it was not prudent due to the close proximity between the building and the creek. Again this is the easiest of all of them to delay because the construction time on this line is shorter than all the other lines.

Alderman Ferrell: Originally you thought the best way to go was the way the petitioner would like it?

David Jurgens: Yes, we wanted to go parallel to Skull Creek and the designer felt it was not prudent to do that. There is not enough room between the building and the creek, they are too close together.

Ray Green, Attorney for Chestnut Apartments stated there is plenty of room along Skull Creek. He stated it goes along Skull Creek until it gets to the apartment complex and then it dog legs and totally consumes the driveway and the parking areas. The reason for the design was basically because that is the way they wanted to do it. That is what he concludes from a memo he received from the City Attorney, it was not because of an engineering issue or there wasn't enough room. He presented a sketch of the area. He stated there is more area for the pipeline along the Skull Creek area than there would be to dog leg through the apartment complex. He said there is so much more room there that one of the reasons Mr. Jurgens does not want to propose this was the structural integrity. The structure might be somewhat impaired by the insulation of the utility lines. The way that they designed it it will almost touch the building on two sides. The bottom line is that this could easily be re-worked. There will not be an issue about the price, I and my partners have already decided that if we can re-route this along Skull Creek we will donate the property. The cost of the property is not an issue the real issue is our residents. We have been working on this for approximately ten days without any prior notice. We just learned the location of the easement on the property this week. If there are any allegations or any statements that my clients or myself delayed this matter it is simply untrue. We have done every thing we can to address the issue and to focus on the issue we have never been concerned about money; we have been concerned about the way this is designed.

Alderman Rhoads: If we table this for two weeks that would give you 60 days is that enough time to negotiate through these issues.

Ray Green: My partners basically said that tonight is our negotiation, meaning that we will give you the right of way if you go that route but if the City decides the lines have to dog leg through the property then we will have to contest it.

Alderman Rhoads: I don't think we as the Council have enough information to negotiate this right now. I don't want to put a crimp on you from a timing standpoint, if we delay this for two weeks or vote on it now and say we won't take action for 60 days are you alright with that?

Ray Green: Absolutely.

Alderman Reynolds: I agree we need to table this for two weeks and give the Council a chance to look at this.

Alderman Lucas: Would 60 days give you and your engineer time to go out and look at this.

David Jurgens: Yes.

Kit Williams: I only heard about changing this this afternoon when the Mayor brought in the very detailed plans that McClelland Engineering had completed on this. Their conclusion was that there was not enough area between the creek and their building in order to put it by Skull Creek which would obviously be something we would rather do because we would rather have it run straight, it would also be cheaper. The City Council can go out and tour this but I urge you to listen to our engineers who have to certify whether or not the creek is going to undercut and wash out the line and cause future problems for the City and our residents. The contractor would dig a ditch in their parking lot cover it every night, nobody would be put out on the street, people would be able to live in their apartments, and there would be minor inconvenience. You would not do the entire parking lot at once; they would do it in sections. After they finish they would do the final asphalt patch and put it back just as good as new. This would not damage their property in fact this would enable them to shut down their own privately owned lift station which is insufficient to pump all of their sewage. Some of their tenants have suffered backup sewerage because their private sewer lift station is insufficient. This pipe since it will be larger will be able to take over and they will not have to have that sewer lift station any more and their tenants will be in better shape because they will not have backups any more.

Alderman Thiel: If this was looked at over the next couple weeks who would look at it?

David Jurgens: We would look at it with the designing engineer and maybe the owner.

Kirk Elsass voiced his concern about the property and the raw sewage they have had to deal with in the past at the complex. He stated he is concerned about the route of the line and the price for the property.

Alderman Rhoads stated he does not feel we have enough information to decide on this today.

Alderman Ferrell: When the engineers go out there and they think we can straighten this out is it my understanding that you will still give the property.

Kirk Ealso: Absoulutely.

Ray Green: I would like the City Council to make their own decision.

Alderman Lucas: The fact that you have had sewer backing up is a health issue. I think if we do this project and correct that problem it will be to your advantage and to the City's.

Alderman Rhoads moved to table the resolution until the January 3, 2006 City Council meeting. **Alderman Cook** seconded the motion. Upon roll call the motion to table passed unanimously.

Vice Mayor Jordan Closed the Public Hearings

Meeting Adjourned at 10:05 PM.

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

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

**Special City Council
Meeting Minutes
December 27, 2005**

A special meeting of the Fayetteville City Council was held on December 27, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Marr, Rhoads, Ferrell, Lucas, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Cook

Pledge of Allegiance

New Business:

DOL Supervised Settlement: A resolution to approve the Department of Labor Supervised Settlement for all employee groups (except firefighters) and to approve a budget adjustment of \$150,000.00 to pay for settlement checks.

Michele Bechhold: Donna Galchus a director with the firm of Cross, Gunner, Witherspoon, and Galchus is with us tonight. The City worked with this labor firm in our supervised settlement process and also the law suit with the Firefighters. Donna will be giving us an overview of the process that the City completed with the Department of Labor. I just want to let you know from the City's perspective what steps we have taken to take a proactive approach to ensure we stay in compliance as we move forward. One of those things is specifically modifying our check stubs so that it will show the number of hours that the FLSA adjustment is being applied to. Currently our software system doesn't do that, so we'll have to do a modification, and we plan to have that in place by the last check of February, 2006. Another step that we're taking is to insure that all of our policies and procedures are on CityNet, that's our intranet; it's very accessible to the employees, the supervisors, the division heads. That's also reinforced through our Finance and

Internal Services training. There are several different modules; one of those is for Human Resources and that training system. New supervisors as well as refresher courses will be held that will help individuals understand what our policies are, and how to comply with the law as well. We also will be instating with the cooperation of the Internal Audit Division more thorough auditing on time sheets to ensure compliance with our policies with that aspect as well. Another thing that the City will be exploring in helping us to maintain compliances is an automated time keeping system, we will be looking at the possible benefits of that. We will be evaluating the costs of those types of systems, and how it might ensure or help us to do our time keeping in a more efficient manner, help with better reporting, and keep an eye on all those exceptions that we may need to address through policy issues. At this time I would like for Donna Galchus to come up and just provide you with an overview of the Supervised Settlement Process.

Donna Galchus: Last March we contacted the Department of Labor on behalf of the City of Fayetteville, and asked them to assist in two respects in reviewing some issues about our pay under the FLSA and in helping us if there were issues to come in compliance, and that's the process that we are now reporting that we have completed. What happened as a result of that and as part of that the Department of Labor investigators stationed up here in Fayetteville actually came in and interviewed City employees. He interviewed approximately 43 employees and he also had an employee I believe from almost every department and sometimes two from every department. As a result of his investigation what he found there were two types of main issues that came out. One is what I'm going to refer to as add ons, and how they affect the pay to City employees. Now add on's are things like lump sum payments that employees would receive, like on call pay, field training officer pay, and education bonus. Those are just a few examples and the problem with that was that those amounts were being paid to the employee, but if the employee worked overtime in a given period they were not being taking into account in the rate computation of the overtime rate. So that was one issue we identified as a result of this. The second issue was what I'm going to refer to as off the clock work, and we found that there was an issue in three departments at three areas on off the clock work. One was the Police, two the 911 dispatchers, and three the jailers, and what was happening we had employees that were coming in to take report or give report, and they were doing that prior to actually going on the clock, and this also becomes an issue in terms of overtime computation and individuals were not being actually compensated for time worked.

Mayor Coody: Donna just to be perfectly clear I think that was about a fifteen minute time period.

Donna Galchus: It was a fifteen minute time period I believe in the Police Department, and I think in the 911 Dispatch, it was even less, ten, eight minutes some thing like that. They had to come in and they actually had to be seated at the telephone at that point. So based on all that at that point, the first thing was to come in to compliance and the City did come into compliance in September of 2005. At that point we went back for two years and computed what we owed the employees who had been involved in either receiving these lump sum payments and were due money or who had off the clock work. The City decided that they wanted to pay the overtime to these employees in terms of re-computing the overtime rate and they also if someone worked off the clock and was not paid they were going to pay them for that straight time also. Those computations were made and it took quite a while to go back and really review each employee's records and see what they were owed and make those computations, and we did this in conjunction with the DOL investigator. We actually did the computations, he's reviewed them,

he's looked at them, and we are now at the process where he has prepared a release that each employee will receive with the check for the money that are due them. It's been approved by the Department of Labor Solicitor's Office in Dallas and we're ready to move forward in bringing this to an end.

Alderman Ferrell: Can you tell me have there been any other cities in Arkansas that have been through a similar situation in the last five years.

Donna Galchus: There have been some cities that have had some wage and hour issues, these add ons I think may have been issues, whether they did a supervised settlement I'm not sure.

Alderman Ferrell: Would a typical corrective action go back two years in something like this? Would this be a typical time frame?

Donna Galchus: What we would call the limitations period for an action under the Fair Labor Standards Act would be two years for a regular action and if there was any proof of willfulness it would be three.

Alderman Ferrell: Thank you.

Alderman Marr: Donna how was the records of this off the clock time obtained? Was it the employees submitted the time that they thought they had done? How was time tracked?

Donna Galchus: Well it was done a couple different ways. In the Police Department the officers who had to take this report and had the off the clock time were on patrol that day. So if they were on patrol we checked the records and they were giving fifteen minutes because they had to have done that if they were on patrol. In the 911 dispatcher case we looked at when they clocked in and we used a rule of if it's more than seven minutes then it moves toward the hour otherwise they get the full ten minutes of time. We actually had some records that we could look at to do that so it was done a little differently in both those departments because of the different situations.

Mayor Coody: To follow up on Alderman Ferrell's question I believe that especially in the firemen's case in that was with the add ons that you said was kind of rare there was a Washington D.C. Law Firm that was kind of making a nation practice of suing cities nation wide if I recall correctly. I don't have any idea how many cities were affected but I believe that there were several in Arkansas that were targeted. I don't remember which ones they were, but I know they were several nationwide at least.

Donna Galchus: That law firm represents the Firefighters Union around the United States and I think they had a law suit even against one of the cities up here, I don't think it was necessarily a group law suit.

Mayor Coody: Ok.

Aldermen Ferrell: Does this finish the problem?

Mayor Coody: Donna I'll let you answer that.

Donna Galchus: Your question was are we done?

Alderman Ferrell: Yes, is this the end of it with the Police and Fire. Is the corrective action taken fixed for everybody now, and is the Department of Labor happy with what has happened? Is it over?

Mayor Coody: I think the answer is yes. I know the DOL is providing waivers for when the City provides a check to settle up any discrepancies there will be a waiver signed you might explain what the waiver says.

Donna Galchus: The waiver will say they are extinguishing there rights under the FSLA, and infact some courts, the majority of courts have held that if they cash the check it also becomes just as if they signed the waiver if for some reason they didn't.

Mayor Coody: Do we have any more questions?

Alderman Reynolds: Are we doing things correctly now and in the future?

Donna Galchus: Yes. We went back and looked at how to compute and we actually used DOL. We sat down with them and talked about how we figure these add ons and the off the clock work is no longer going on at all. As Michele was saying through education of the mangers and continuing to maybe audit things and look at things over time I think were going to ensure that. I think we always have to be kind of watching things and keeping up with it because manager's change and things can revert back but I don't think that's going to happen because of what they put in place.

Alderman Ferrell: Thank you.

Mayor Coody: Anything else?

Alderman Lucas: We do have the policies and procedures in place so that it will be something for them to refer to and everything and it will be on the books that that is the way it is suppose to be done.

Donna Galchus: Yes Madam

Mayor Coody: We redid all of our policies and procedures based on all of this to make sure, and we just finalized those in the last several days to make sure all of our policies and procedures reflect everything we learned in this exercise.

Alderman Marr: I have a couple questions for the Human Resources Department to the corrective actions. What percent of our time sheets do we audit currently? You said that were going to increase that with more auditing what did we do, how many did we do, or how often did we do it prior to this?

Michele Bechhold: The Human Resources Division does not see the time sheets. I can check with Accounting and see on the percentage. I know on the previous organization the Internal

Auditor reviewed the time sheets when Nancy Smith was here. I'd want to verify to see if that practice was continuing after Vicki Deaton came on.

Alderman Marr: Let me ask it in another way. What is our goal what percent of the time are we looking to increase, if we were going to set a goal of more auditing. What percent of time sheets are we expecting to audit?

Michele Bechhold: We are in the process of beginning to partner with the Internal Audit to develop what that plan will be and that will be a goal we will set together and look at the hours available and how many hours of their program can be devoted to that along with auditing all the other items that need to be looked over in the City.

Alderman Marr: Mayor I'd like us to get an update when you've got that set so we know how much we are doing, how much we did and what our plan is moving forward. On evaluating a time keeping system on the other items you mention a time frame, which thank you for correcting the check stub I appreciate that a lot, but the time frame for evaluating time keeping systems and things of that nature do you have a time frame?

Michele Bechhold: I don't know that we've been given a deadline; I know that IT has been working on a RFP and Steve may have some information on that.

Steve Davis: Actually our time frame is to have our evaluation completed by the end of the first quarter of 2006. We would expect in terms of the increased Internal Audit activity, what we expect to do is a sampling, targeting those areas that had the biggest issues that we uncovered during the Supervised Settlement so we would expect that just off the top of my head I would expect somewhere between fifteen and twenty six percent.

Mayor Coody: Any other questions?

Alderman Rhoads: What's the average check amount?

Steve Davis: For this settlement? There are some checks like Park's has a total of \$10.00 for all of there employees, and I think there's thirty employees in Park's.

Mayor Coody: The bulk of this I'm guessing \$140,000 out of the \$150,000 goes to the Police Department.

Donna Galchus: Their was a total of 251 people that will be receiving checks and approximately a total of \$125,000 and that doesn't include the benefits that still have to be added into that.

Alderman Marr: And the largest check?

Michele Bechhold: The largest check I don't know that I have a specific number, but its going to be in the neighborhood of between a \$1,000 and \$1,500 because there would be a great disparity on an average since there would be some checks as small as thirty nine cents and some checks as large as a \$1,000 or so.

Alderman Rhoads moved to approve the resolution. Alderman Jordan seconded the motion.

Alderman Reynolds: Where's that money coming from?

Steve Davis: Because most of the expense is in General Fund it's coming out of our Reserves and General Fund.

Upon roll call the resolution passed 7-0. Alderman Cook was absent.

Resolution 258-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 6:25 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

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 17, 2006**

A meeting of the Fayetteville City Council will be held on January 17, 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**

2005 State of the City Address – Mayor Coody

Housing Authority Confirmation of Appointment – Betty Turner

A. CONSENT:

- 1. Approval of the November 15, 2005, December 20, 2005 City Council meeting minutes and the December 27, 2005 Special City Council meeting minutes.**
- 2. West Fork Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006.
- 3. Farmington Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006.
- 4. Washington County Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006.

5. **Greenland Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2006.
6. **ADM 06-1899 Gypsum Road Realignment:** A resolution ADM 06-1899 amending the Master Street Plan, realigning the Planned Collector Streets Gypsum Road and Raven Lane that currently traverse through Crystal Springs Subdivision Phase I to north of the current alignment within the approved Rockhaven Subdivision as indicated in the attached maps.

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 ordinance was left on the Second Reading at 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. This ordinance was left on the First Reading at the January 3, 2006 City Council meeting. This ordinance was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*
3. **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 resolution was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*
4. **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 ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*
5. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*

6. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*
7. **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 ordinance was left on the Second Reading at the January 3, 2006 meeting.*

C. NEW BUSINESS:

1. **RZN 06-1887 Cato Springs Road:** An ordinance rezoning that property described in rezoning petition RZN 06-1887 for approximately .31 acres located at 1068 Cato Springs Road from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre.
2. **Dychem International:** An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2006.
3. **Fayetteville Downtown Partners:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of the Downtown Master Plan.

D. INFORMATIONAL:

Council Tour: None (City Holiday)

FAYETTEVILLE HOUSING AUTHORITY

#1 NORTH SCHOOL AVE.
FAYETTEVILLE, AR. 72701-5928
PH: (501) 521-3850 FAX (501) 442-6771

RECEIVED

JAN 09 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

January 6, 2006

Honorable Mayor Dan Coody
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Coody,

The Fayetteville Housing Authority Board of Commissioners met in regular session on December 20, 2005 and re-elected Betty Turner to the Board of Commissioners. Her five year term will run to December 28, 2010.

We would appreciate the City Board's confirmation of this election at their next regular meeting.

Sincerely yours,


Fredia Sawin
Executive Director



INTEROFFICE CORRESPONDENCE

TO: City Council Members

THRU: Frank Johnson, Chief of Police

FROM: Jill Hatfield, Animal Services Superintendent

DATE: January 6, 2006

RE: Supplemental Information regarding Inter-Local Sheltering Contracts for 2006

The City of Fayetteville Animal Services has offered inter-local sheltering contracts to surrounding municipalities since 1995. In 2000, six cities contracted with Fayetteville for sheltering of their stray and surrendered animals. Each contract was for a 12 month period from January through December.

Seven cities and Washington County continue to contract with the City of Fayetteville for animal sheltering. Offering these contracts to the municipalities who do not have sheltering facilities is a humane approach to the overpopulation problem and ensures the animals are given excellent care and humane treatment. To help in the battle of pet overpopulation, all municipalities in Washington County and the citizens of Fayetteville should be encouraged to utilize the county's free low income spay/neuter program and Fayetteville's \$10 low income spay/neuter service. These services should be emphasized to decrease the amount of homeless animals needing to be sheltered.

As of 2005 the inter-local sheltering contract cost is \$75 per animal sheltered.

Municipality	Number of Animals	Fee per year/month
Elm Springs	10	\$750 / \$62.50
Farmington	210	\$15,750 / \$1,312.50
Goshen	7	\$525 / \$43.75
Greenland	29	\$2,175 / \$181.25
Tontitown	13	\$975 / \$81.25
Washington County	753	\$56,475 / \$4,706.25
West Fork	54	\$4,050 / \$337.50
Winslow	15	\$1,125 / \$93.75
Total: 8	1,091	\$81,825 / \$6,818.75



Agenda Session 1/10/06
1-17-06

B.I. ADM 05-1657

Mt. Sequoyah South Rezoning

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Tim Conklin, Planning and Development Management
Jeremy Pate, Director of Current Planning
From: Leif Olson, Associate Long Range Planner
Date: January 10, 2006
Subject: Rezoning for the Mt. Sequoyah South (RZN 05-1576)

PROPERTY OWNER CONTACTS

Planning staff has had contact with residents who have signed the petition for rezoning. Primarily, property owners had questions regarding the building setbacks, height, and lot area requirements.

1. Andrew Feinstein – Originally signed the petition to rezone to RSF-8 but is now requesting an RSF-4 zoning designation.
2. Marcia Donley – Called staff requesting clarification of the RSF-8 zoning district adopted by the City Council. Ms. Donley had questions regarding the building setbacks, height, and lot area requirements.
3. Jeremy Tenhaken – Has requested the RSF-4 zoning designation.
4. Jim Jernigen – Called staff with questions regarding the building setback requirement. Mr. Jernigen is requesting the RSF-8 zoning designation.
5. Kit Williams – Mr. Williams is requesting that his properties are rezoned RSF-4.
6. Linda Doede – Ms. Doede contacted staff with questions regarding the RSF-8 zoning designation's lot area requirements. Ms. Doede also has concerns with the property owners not requesting a Residential Single Family designation and the potential for multi-family development uphill from her property.
7. Nancy Varvil – Ms. Varvil is requesting that her property is rezoned RSF-4.

NEW "EXHIBIT A" – JANUARY 10, 2006

Please find attached the new "Exhibit A" dated January 10, 2006. This exhibit replaces the existing "Exhibit A" in the ordinance.

MansfieldHouse, LLC

217 N. East Ave.
Fayetteville, AR 72701

December 30, 2005

B.4
RPZD Wedington Circle
Page 1 of 2
*Wedington
Circle*

**City of Fayetteville Alderman
113 W. Mountain
Fayetteville, AR 72701**

re: Wedington Circle

Dear Fayetteville Alderman,

MansfieldHouse, LLC is proposing a large mixed use project just west of Harp's grocery on Garland. This project is the result of years of discussion with Tim Conklin, Jeremy Pate and Dawn Warwick regarding our shared vision to bring great projects to the City of Fayetteville. Our project has been fashioned to achieve the following goals:

- 1. create a workable, livable, walkable urban environment**
- 2. connectivity to commercial, retail and transportation nodes**
- 3. reduce urban sprawl**
- 4. use high quality building products and finishes**
 - a. no T1-11**
 - b. no vinyl siding**
- 5. eliminate major obstacles to quality design such as**
 - a. large surface parking area**
 - b. exterior corridors**
 - c. architectural mediocrity.**

We designed a much denser project for the following reasons:

- 1. the need for critical mass of population to make economic sense for the commercial and retail components to work**
- 2. to trade surface parking for structured parking under buildings**
- 3. the walkable distance to the University grocery store, restaurants, etc. which will reduce the typical number of automotive trips per resident**
- 4. the adequate street capacity—bordered by major streets on both sides, four lane Wedington and soon to be four lane Garland.**

In order to facilitate the process, we have had:

- 1. early planning meetings with the members of the two adjoining neighborhood associations**

2. three separate ward meetings
3. numerous meetings with many different city planners, engineers and three separate city arborists
4. consultations with the State Department of Transportation.

As a result, we have made significant changes from the original design and scope based on the input and feedback of each of the above groups. We retained Hall Planning and Engineering (the same team the City used in conjunction with its Downtown Master Plan Study) to perform a traffic study for this project and their results determined that due to the nature of the current infrastructure, no significant impact to current conditions will be created by this project.

We believe that the market is now demanding a higher quality environment than the usual multifamily projects that are all over town. Current RMF24 zoning forces the development of more bedrooms for an economically viable project. This PZD permits smaller units with a higher quality design.

Our conceptual design includes the following:

1. 296 living units with less bedrooms than are allowed under the current RMF24 zoning (our 428 bedrooms vs. up to 532 bedrooms if each unit were 4 bedrooms)
2. little surface parking yet more parking spaces than required by current code (ours 392 vs. 353 required)
3. attractive architectural design and urban feel
4. use of high quality building materials
5. on-site office and retail components
6. adjacent to two separate University transit stops
7. climate controlled corridors
8. on-site fitness center
9. retention of significant urban forest within tree canopy.

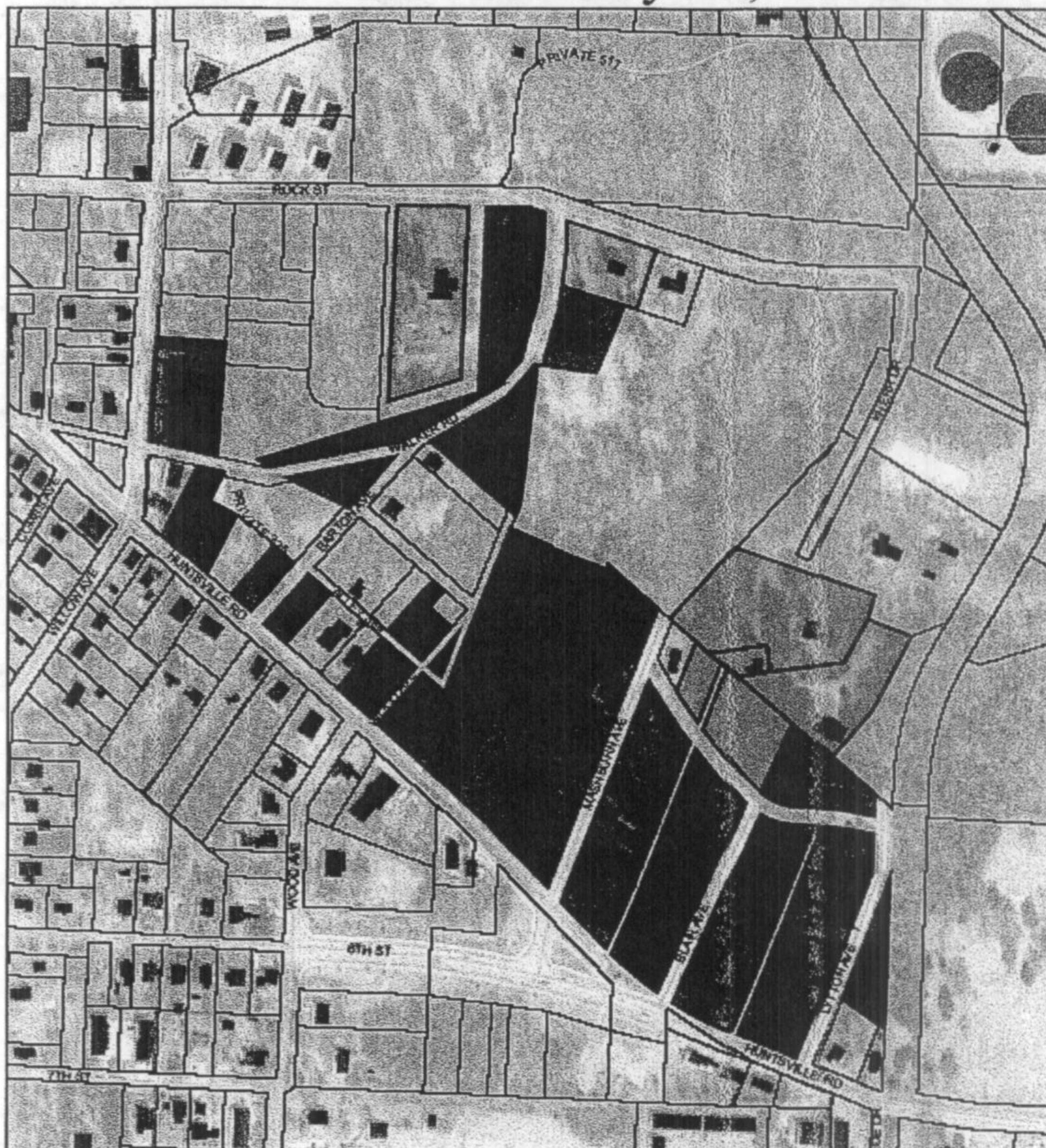
We appreciate your time and consideration of our project and hope you can support this PZD development in our urban center.

Respectfully Submitted,



Gregory House for
MansfieldHouse, LLC

Exhibit A – January 10, 2006



RSF-4
RSF-8

0 105 210 420 630 840 Feet

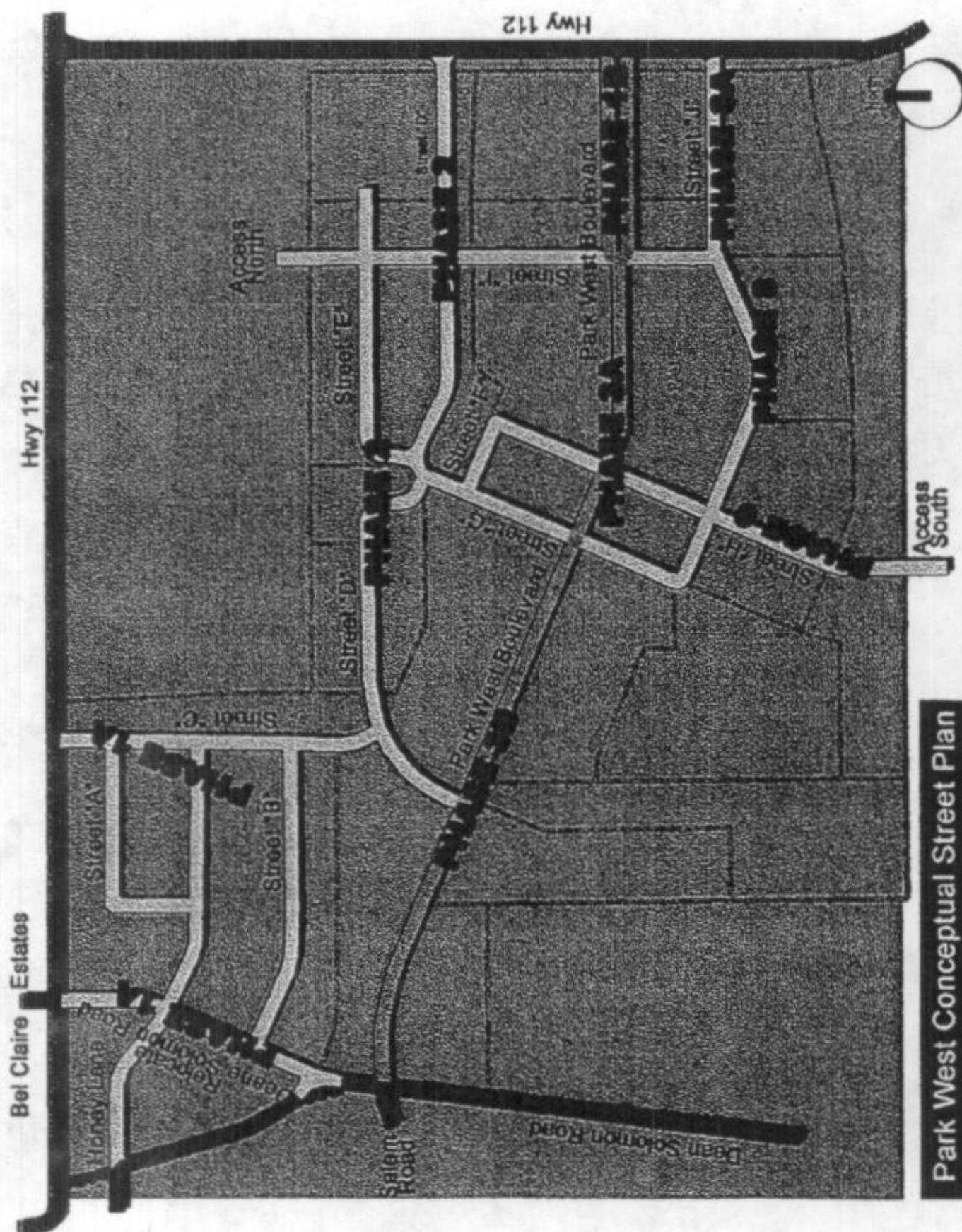
January 9, 2008



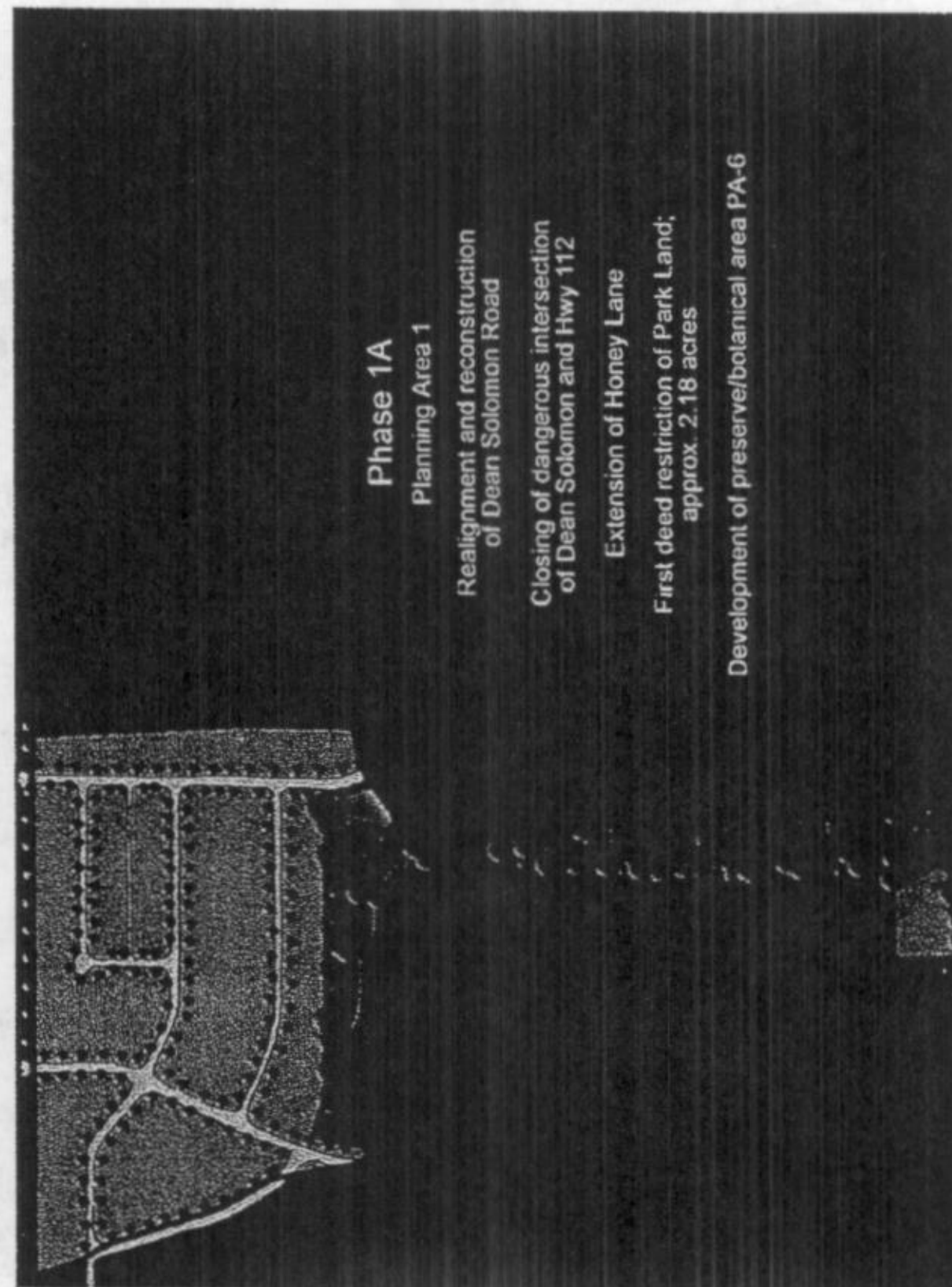
Agenda Session 4/10/06
1/17/06

PARK WEST

FAYETTEVILLE, ARKANSAS



Park West Conceptual Street Plan



Phase 1A

Planning Area 1

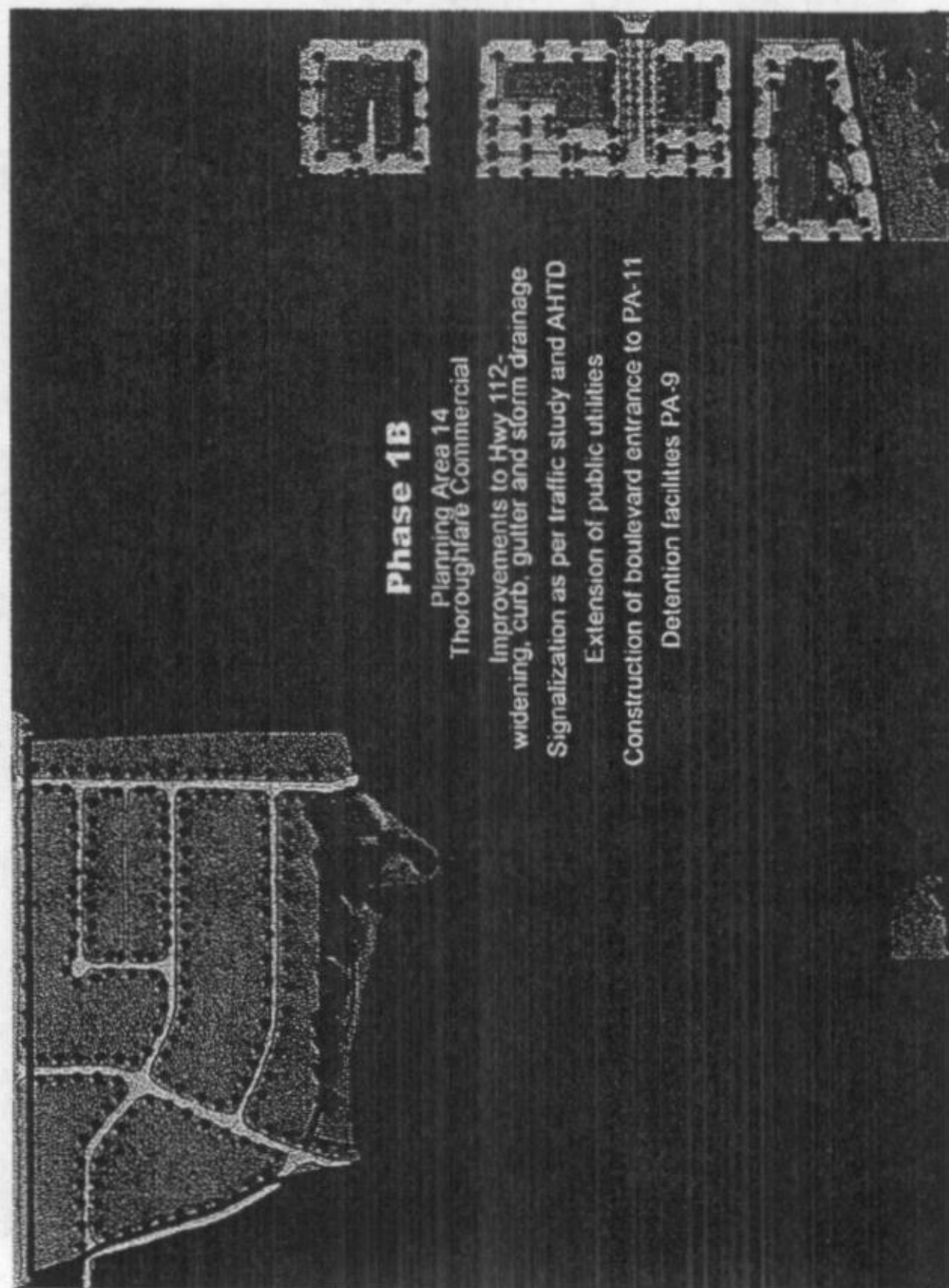
Realignment and reconstruction of Dean Solomon Road

Closing of dangerous intersection of Dean Solomon and Hwy 112

Extension of Honey Lane

First deed restriction of Park Land, approx. 2.18 acres

Development of preserve/botanical area PA-6



Phase 1B

Planning Area 14

Thoroughfare Commercial

Improvements to Hwy 112 widening, curb, gutter and storm drainage

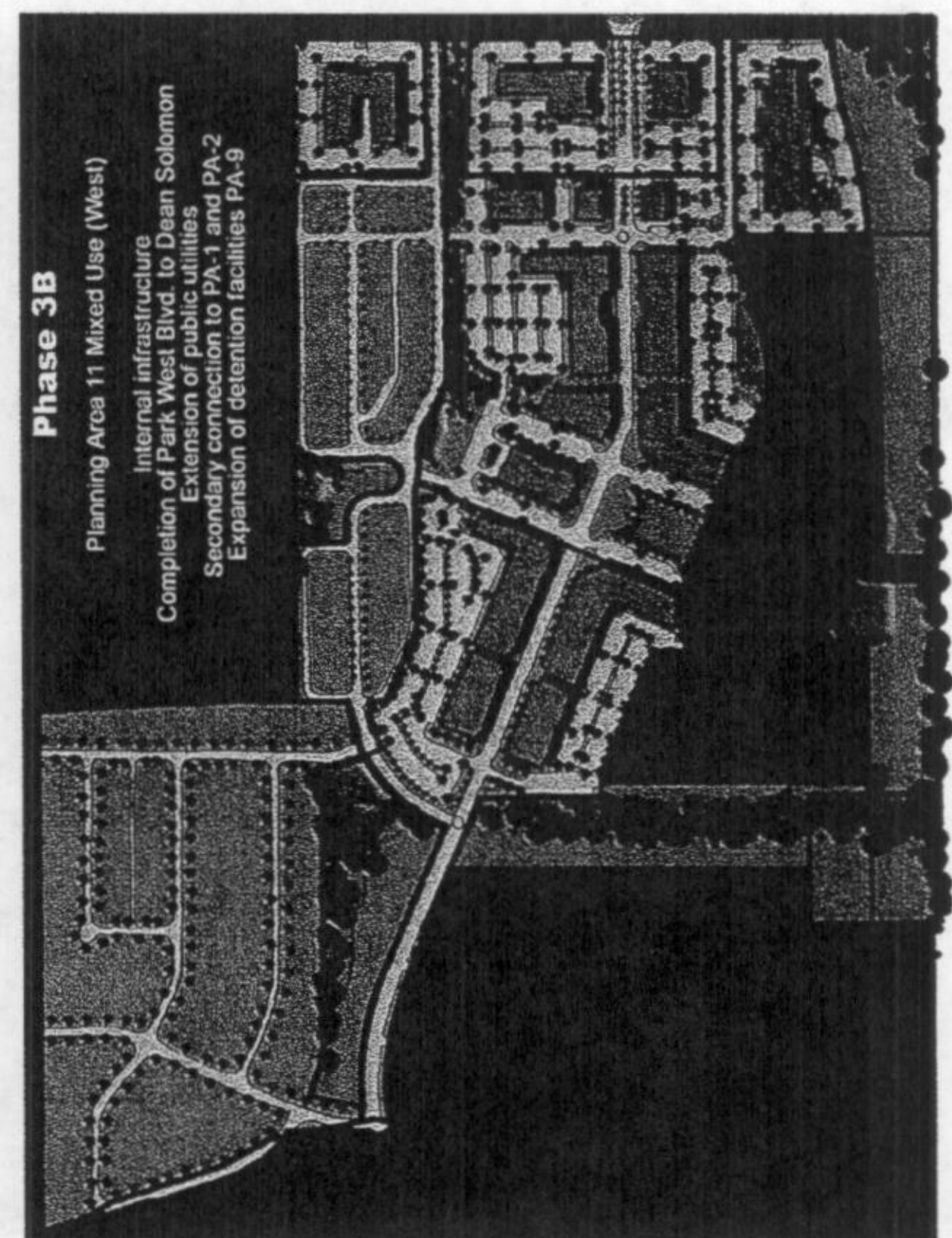
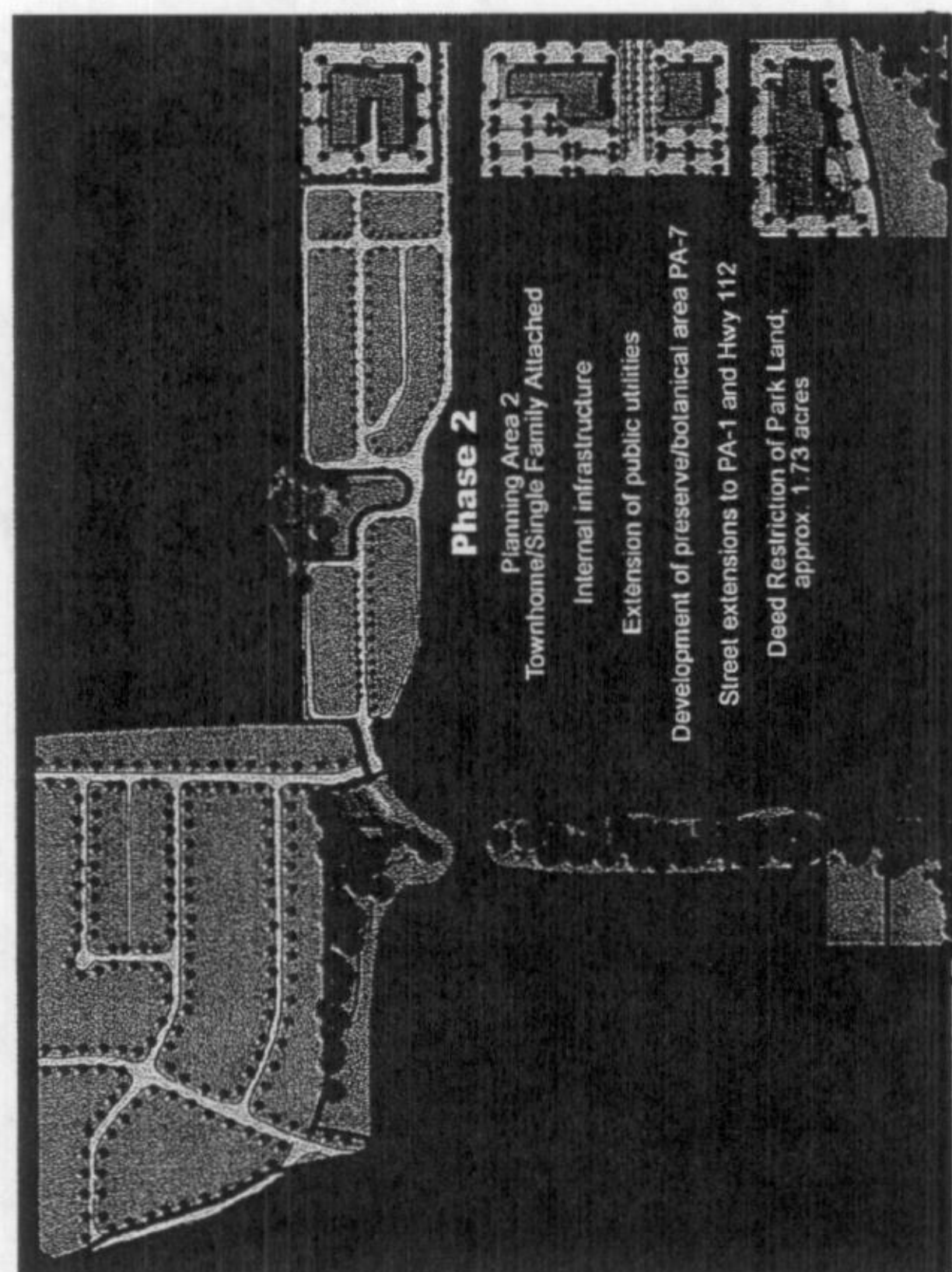
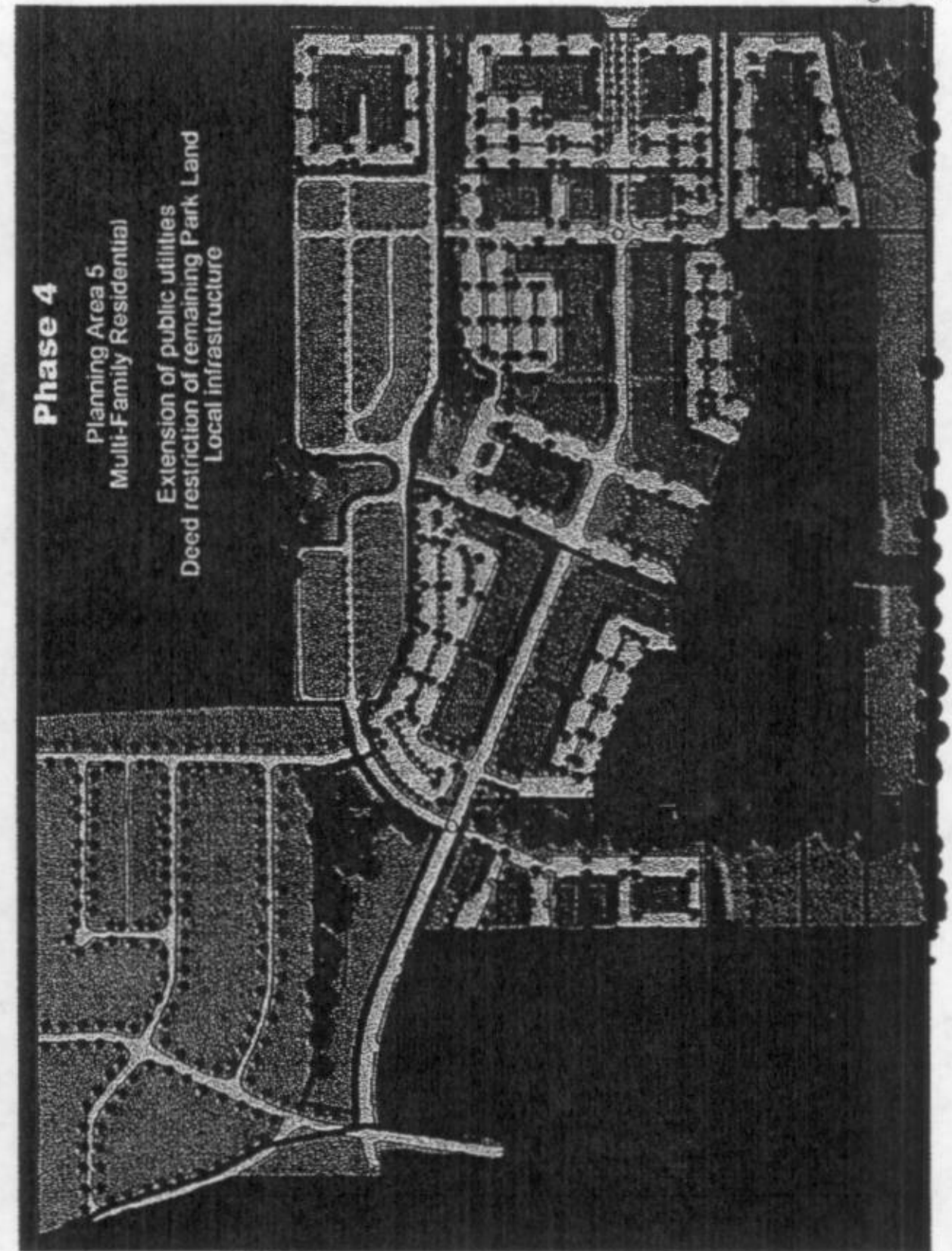
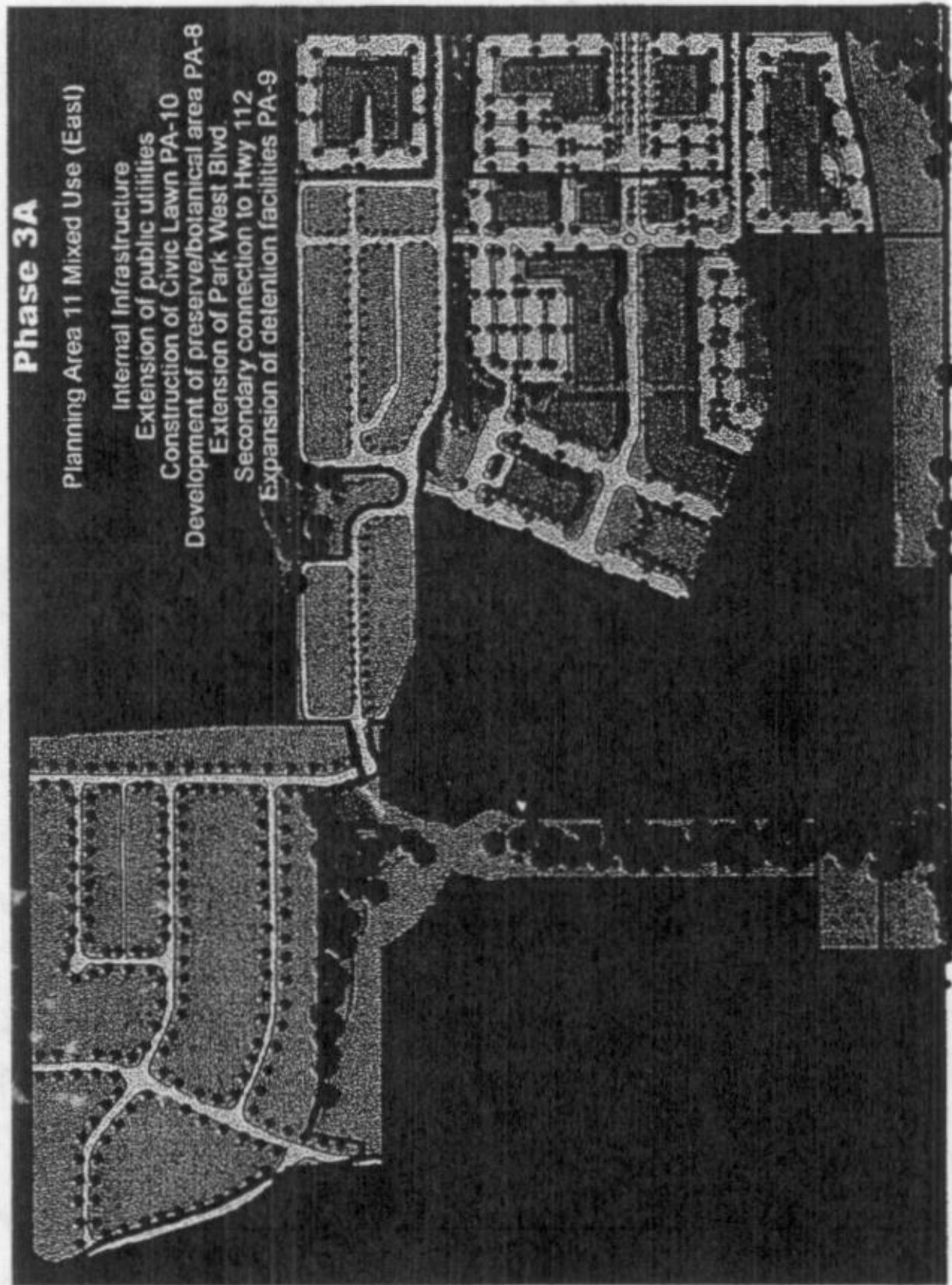
Signalization as per traffic study and AHTD

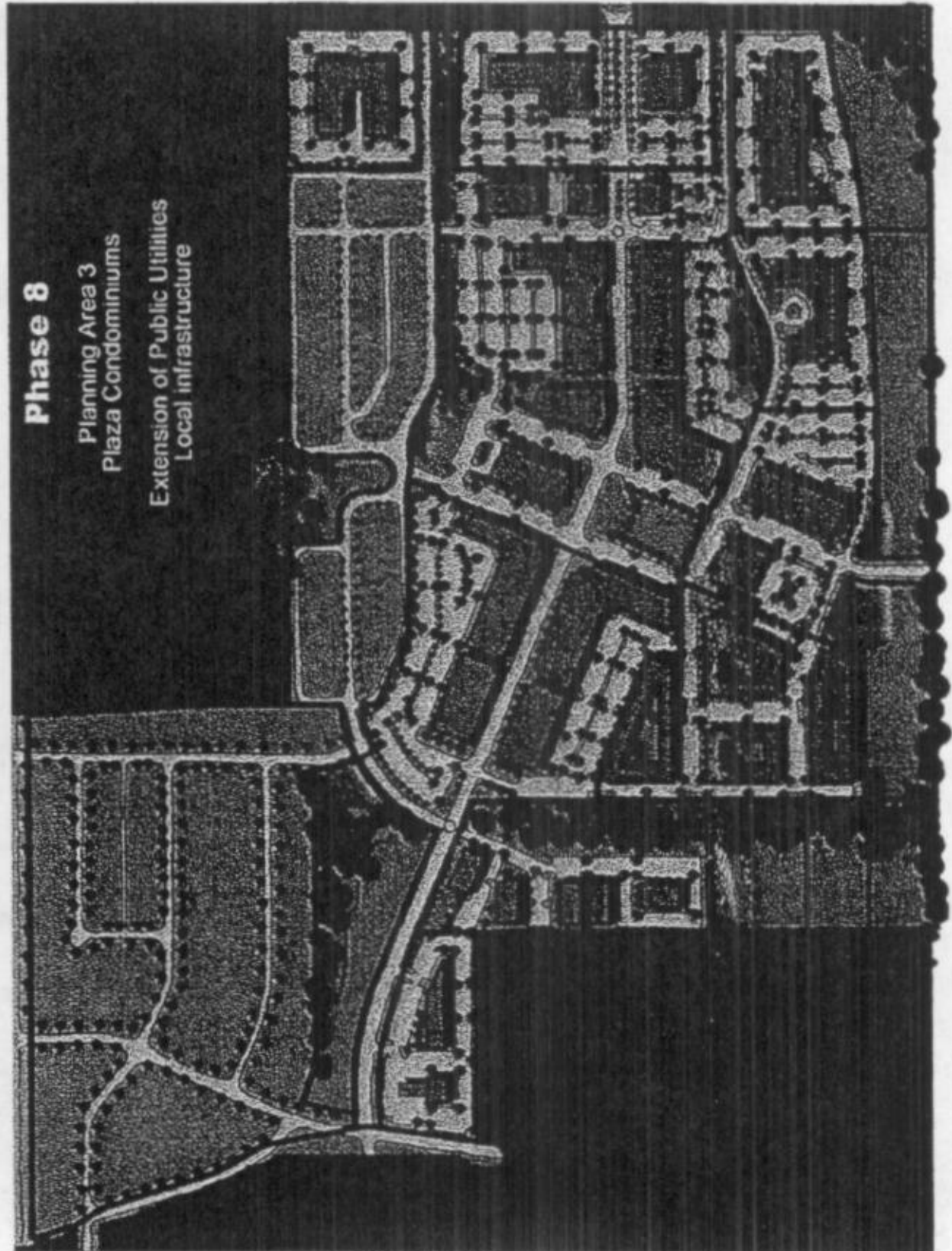
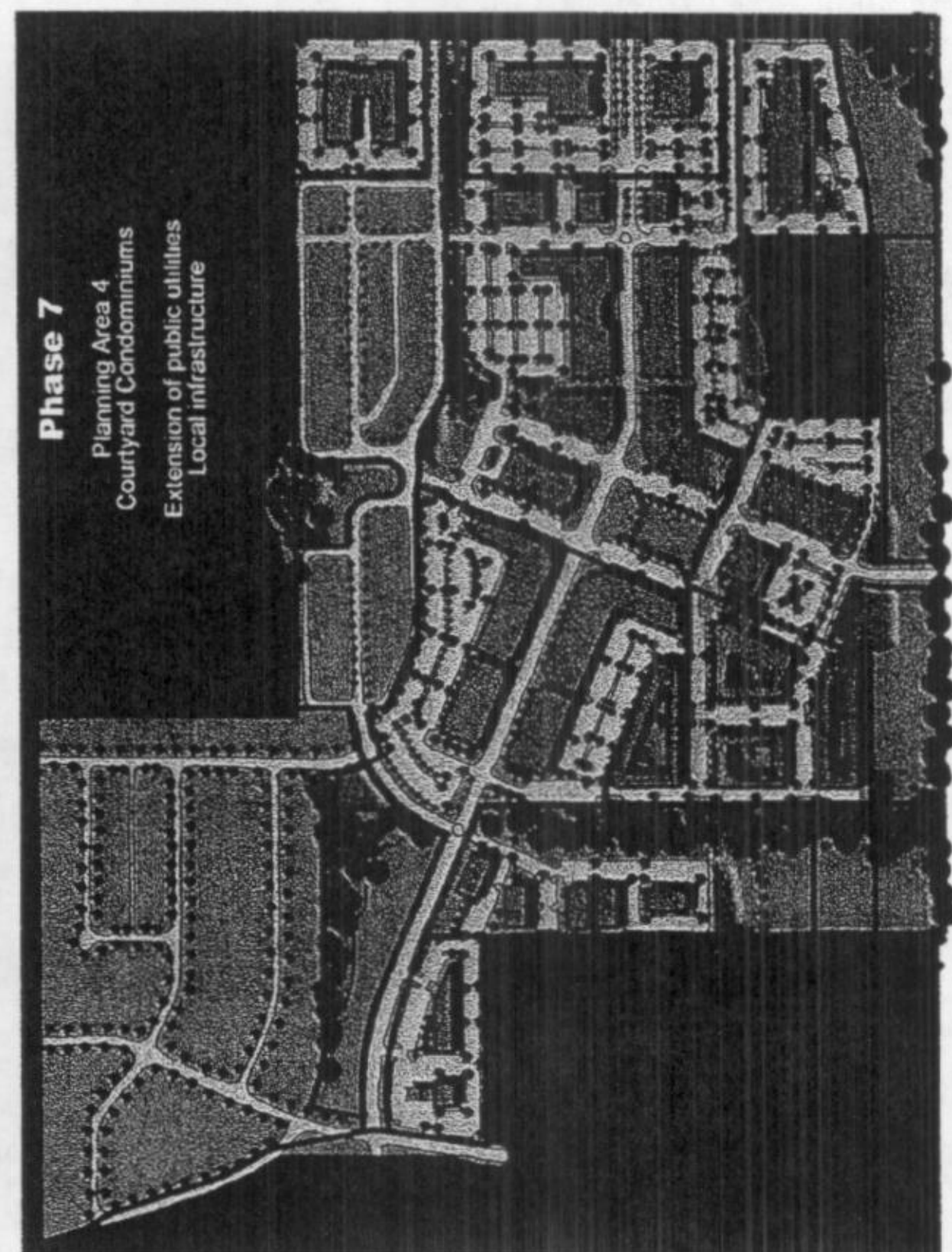
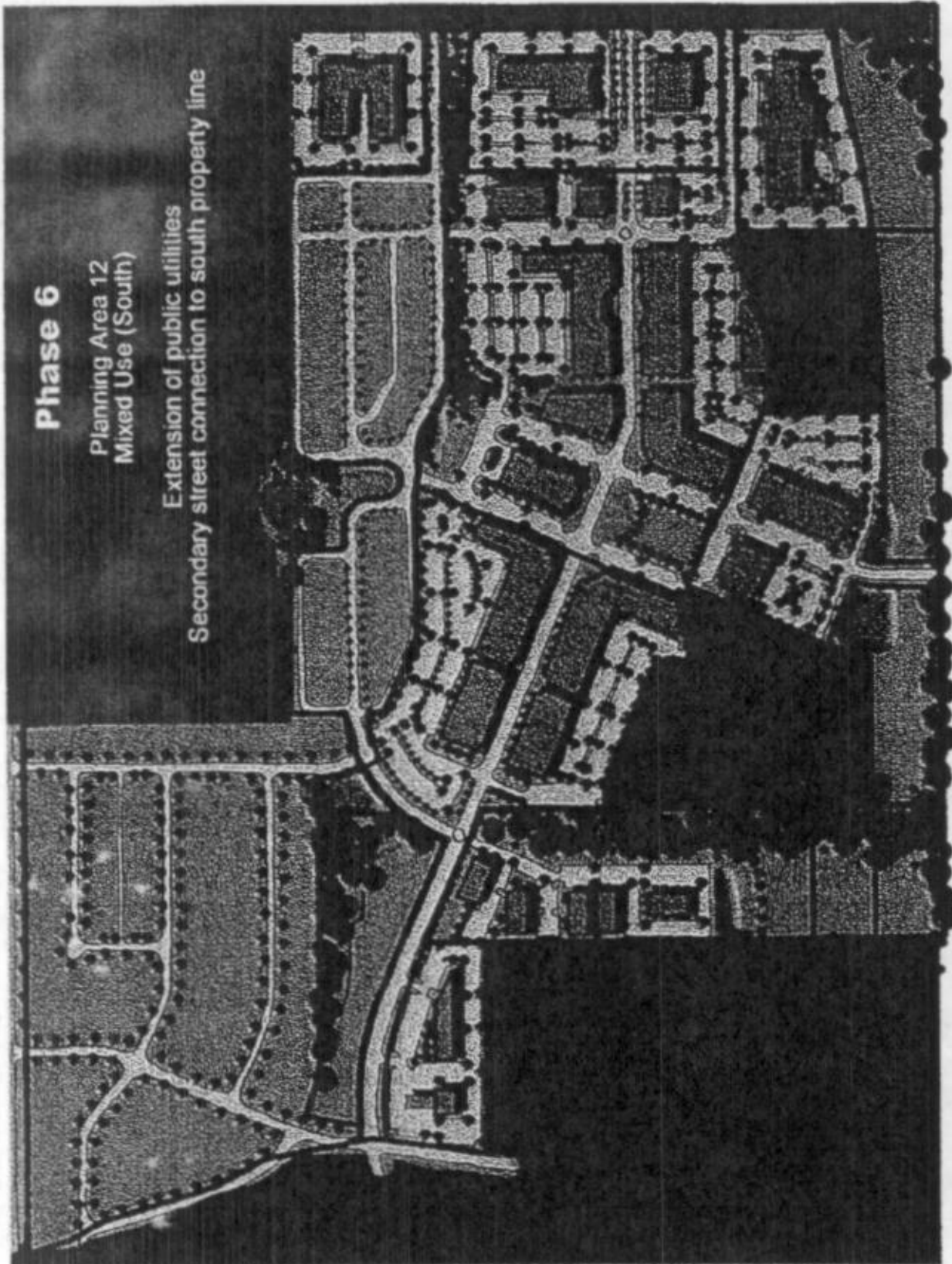
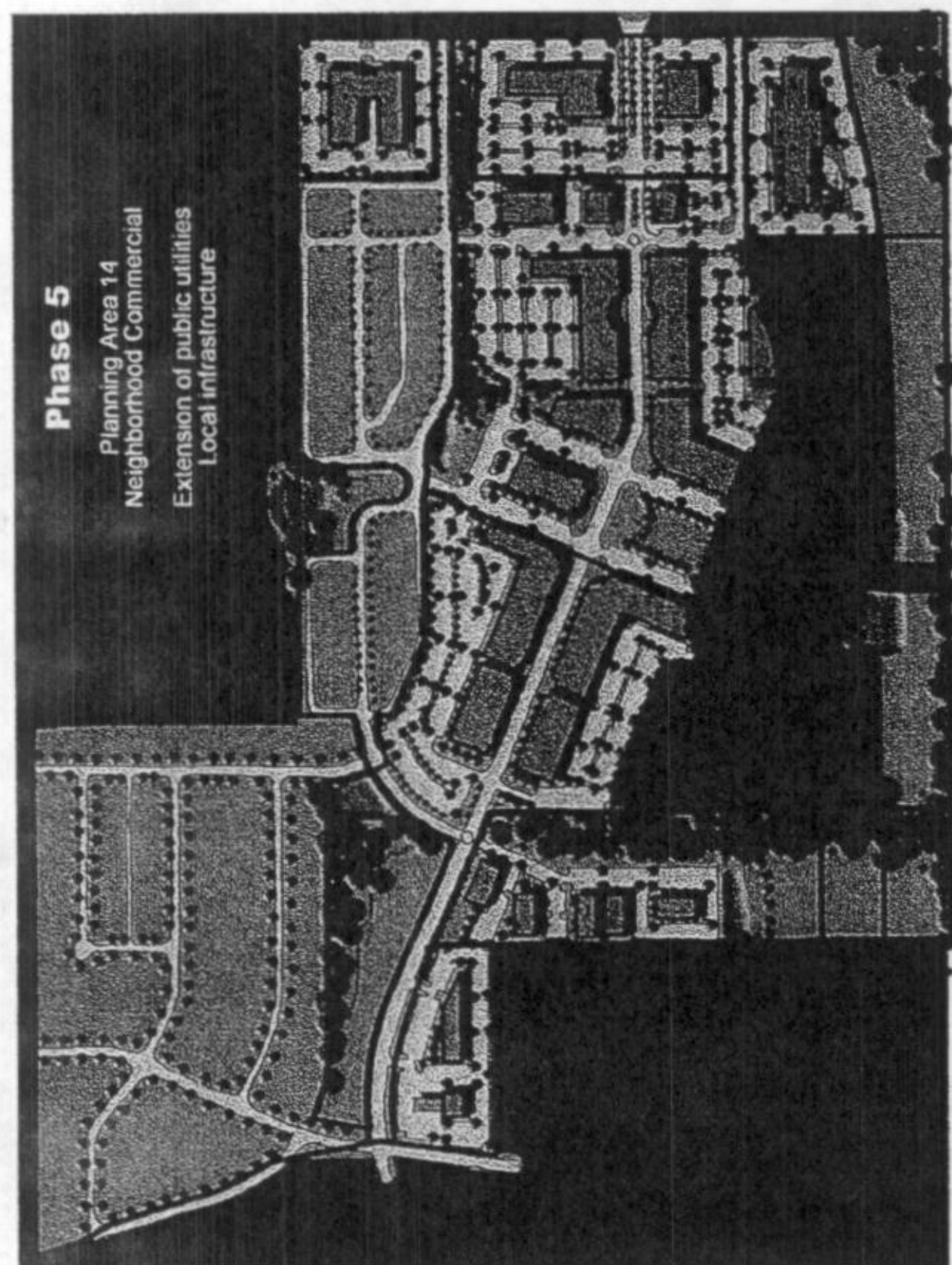
Extension of public utilities

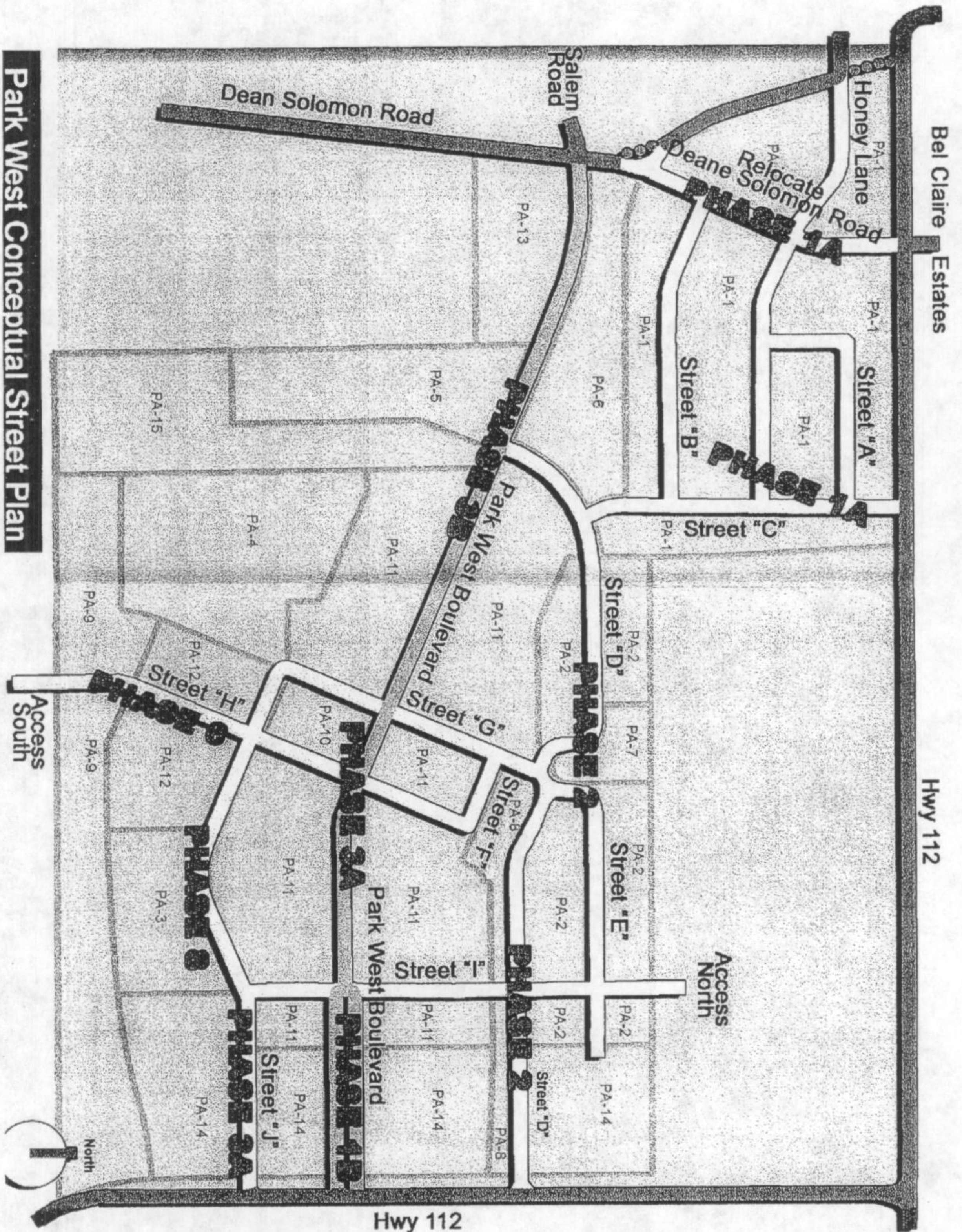
Construction of boulevard entrance to PA-11

Detention facilities PA-9

B.5.







Park West Conceptual Street Plan

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C.3.

C. 3
Fayetteville Downtown Partners
Page 1 of 4

17-Jan-06
City Council Meeting Date

Tim Conklin
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

Approval of a contract and bid waiver ordinance for Fayetteville Downtown Partners in the amount of \$90,000 to provide services to the City of Fayetteville with regard to implementing the Downtown Master Plan. Funding for this request is from the Wilson Springs sale proceeds.

\$90,000.00

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

1010.6600.5734.00

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


Department Director

1-6-06
Date

Previous Ordinance or Resolution #

n/a

Original Contract Date:

n/a

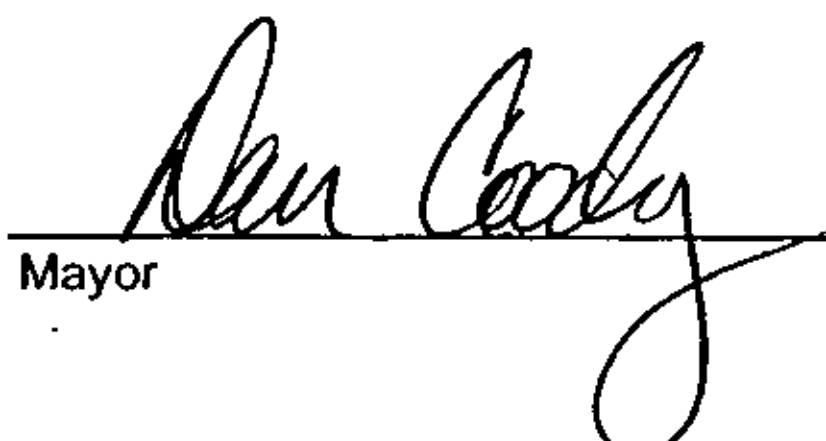
Original Contract Number:

n/a


City Attorney

1/6/6
Date

Received in City Clerk's Office


Mayor

1/6/06
Date

Received in Mayor's Office

Comments:

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT FOR SERVICES WITH FAYETTEVILLE DOWNTOWN PARTNERS IN THE AMOUNT OF \$90,000.00 TO ASSIST IN THE IMPLEMENTATION OF THE DOWNTOWN MASTER PLAN.

WHEREAS, Fayetteville Downtown Partners is the only organization that currently exists that represents the entire area that is included in the Downtown Master Plan; and,

WHEREAS, Fayetteville Downtown Partners is therefore, uniquely qualified and capable of performing the identified contractual services for the City of Fayetteville.

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 and hereby approves a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of The Downtown Master Plan. A copy of the contract for services is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the funding for this request be from the Wilson Springs sale proceeds.

PASSED and APPROVED this 17th day of January, 2006.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

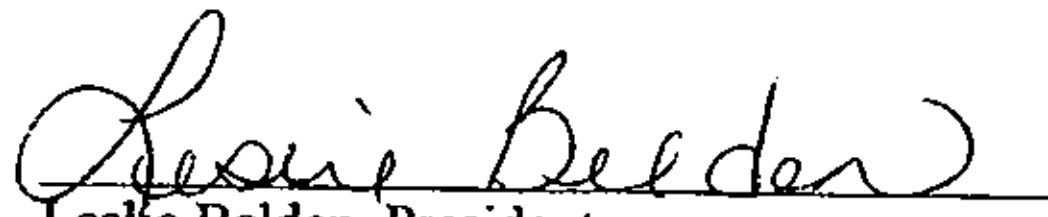
By: SONDRA SMITH, City Clerk

DRAFT

IN WITNESS WHEREOF, City and consultant have caused this instrument to be signed by their respective duly authorized officers, all on the day and year first above written.

ATTEST:

FAYETTEVILLE DOWNTOWN PARTNERS


Leslie Belden, President

ATTEST:

CITY OF FAYETTEVILLE

Mayor Dan Coody

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 17, 2006**

A meeting of the Fayetteville City Council will be held on January 17, 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**

2005 State of the City Address – Mayor Coody

A. CONSENT:

- 1. Approval of the November 15, 2005, December 20, 2005 City Council meeting minutes and the December 27, 2005 Special City Council meeting minutes.**
- 2. West Fork Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006.
- 3. Farmington Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006.
- 4. Washington County Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006.
- 5. Greenland Animal Sheltering Services:** A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2006.

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 ordinance was left on the Second Reading at 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. This ordinance was left on the First Reading at the January 3, 2006 City Council meeting. This ordinance was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*
3. **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 resolution was Tabled at the January 3, 2006 meeting to the January 17, 2006 meeting.*
4. **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 ordinance was left on the Second Reading at the January 3, 2006 City Council meeting.*
5. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*
6. **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 ordinance was left on the First Reading at the January 3, 2006 meeting.*
7. **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 ordinance was left on the Second Reading at the January 3, 2006 meeting.*

C. NEW BUSINESS:

1. **RZN 06-1887 Cato Springs Road:** An ordinance rezoning that property described in rezoning petition RZN 06-1887 for approximately .31 acres located at 1068 Cato Springs Road from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre.
2. **ADM 06-1899 Gypsum Road Realignment:** A resolution ADM 06-1899 amending the Master Street Plan, realigning the Planned Collector Streets Gypsum Road and Raven Lane that currently traverse through Crystal Springs Subdivision Phase I to north of the current alignment within the approved Rockhaven Subdivision as indicated in the attached maps.
3. **Dychem International:** An ordinance to waive competitive bidding and award an extension of a contract with Dychem International through the end of 2006.
4. **Fayetteville Downtown Partners:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of the Downtown Master Plan.

D. INFORMATIONAL:

Council Tour: None (City Holiday)

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

A. 2
West Fork Animal Sheltering
Page 1 of 6

1/17/2006

City Council Meeting Date

Jill Hatfield

Submitted By

Animal Services

Division

Police

Department

Action Required:

Approval of Interlocal Agreement with the City of West Fork to provide animal sheltering services to the City of West Fork for 2006.

N/A

Cost of this request

\$

-

Category / Project Budget

1010 0001 4390 00

Account Number

\$

-

Funds Used to Date

\$

-

Remaining Balance

Project Number

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # 76-05

Original Contract Date:

Original Contract Number:

Department Director

Date

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED
12/29/05
CJP

Received in Mayor's Office

ENTERED
12/29/05
AH

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE CITY OF WEST FORK, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO THE CITY OF WEST FORK FOR 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 an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to the City of West Fork for 2006. A copy of the agreement, 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 Inter-Local Agreement with the City of West Fork, Arkansas.

PASSED and APPROVED this 17th day of January, 2006.

APPROVED

By:

DAN GOODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk

DRAFT

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND CITY OF WEST FORK, ARKANSAS**

THIS AGREEMENT is entered into this _____ day of _____, 20_____, by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF WEST FORK, ARKANSAS**, concerning the provision of animal sheltering services;

WHEREAS, A.C.A. § 25-20-108, Interlocal Cooperation Act, authorizes public entities to enter into agreements to provide governmental services to the mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and City of West Fork; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to City of West Fork.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by West Fork citizens and designated animal control officers.

Article II

The City of West Fork agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

The City of West Fork agrees to pay an annual sheltering services fee of Four Thousand Fifty dollars (\$4,050) to the City of Fayetteville in the form of twelve (12) monthly payments of Three Hundred Thirty-seven dollars and Fifty cents (\$337.50). Payment shall be due on or before the first day of each month. The annual sheltering services fee shall be based upon the total number of animals delivered to the shelter by West Fork citizens and designated animal control officers during the previous year.

Article IV

This agreement shall remain in effect until midnight December 31, 2006.

Article V

The City of Fayetteville agrees to provide assistance to the City of West Fork in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the two cities.

Article VI

Both Cities acknowledge the existence of a county wide animals sheltering agreement between the City of Fayetteville and Washington County, but which currently excludes the corporate boundaries of any incorporated cities. The Cities agree that this Agreement shall automatically terminate in the event that the City of West Fork enters into an animal sheltering services agreement with Washington County, Arkansas. In any event, either City shall have the right to terminate this Agreement upon Thirty (30) days written notice to the other.

Article VII

Neither City may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VIII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article IX

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article X

The City of West Fork shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement,

provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or the City of West Fork under the Constitution and Statutes of the State of Arkansas.

Article XI

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XII

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties, after an affirmative vote of a majority of each city's governing body.

IN WITNESS WHEREOF, the City of Fayetteville and the City of West Fork have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

CITY OF WEST FORK,
ARKANSAS



VIRGIL BLACKMAN, Mayor

ATTEST:



PAULA CAUDLE, City Clerk

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

A.3
Farmington Animal Sheltering
Page 1 of 8

1/17/2006

City Council Meeting Date

Jill Hatfield

Submitted By

Animal Services

Division

Police

Department

Action Required:

Approval of Interlocal Agreement with the City of Farmington to provide animal sheltering services to the City of Farmington for 2006.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

1010 0001 4390 00

Account Number

\$

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

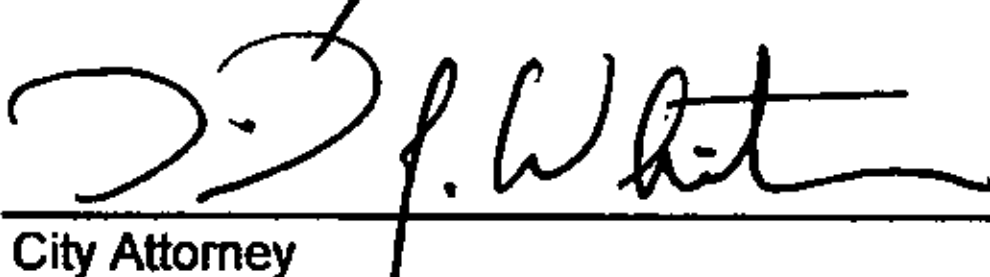

Department Director

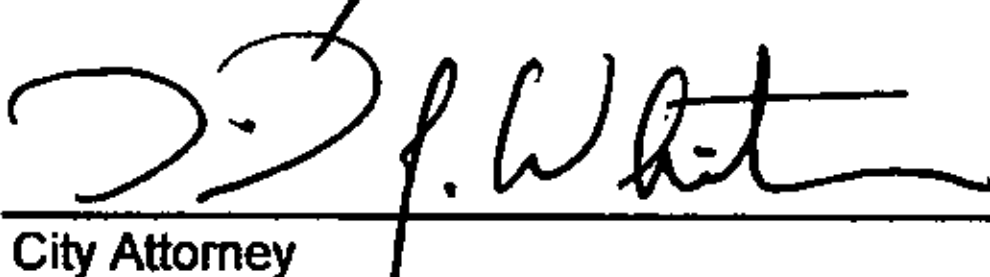

Date

Previous Ordinance or Resolution # 74-05

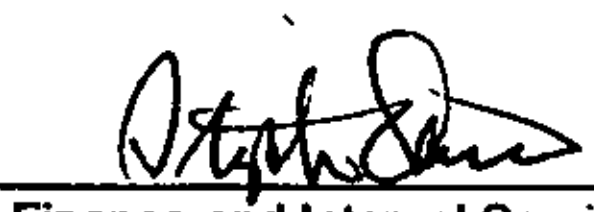
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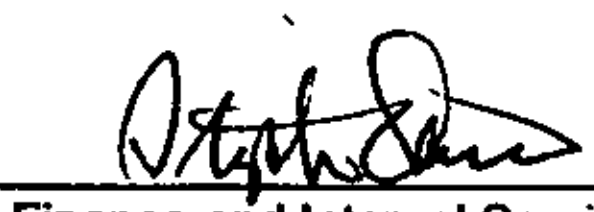
Original Contract Number:


City Attorney

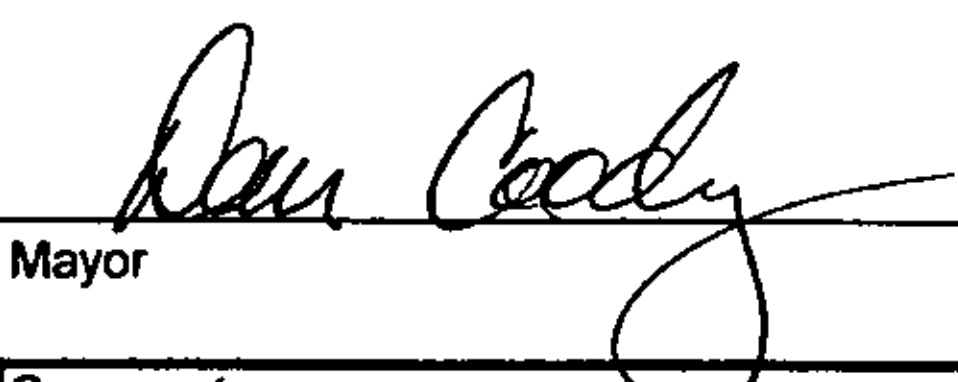

Date

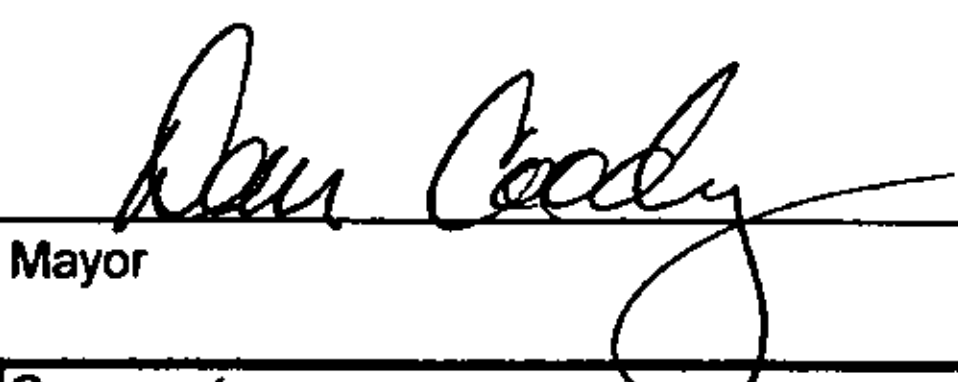
Received in City Clerk's Office


Finance and Internal Service Director


Date

Received in Mayor's Office


Mayor


Date

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE CITY OF FARMINGTON, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO THE CITY OF FARMINGTON FOR 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 an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2006. A copy of the agreement, 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 Inter-Local Agreement with the City of Farmington, Arkansas.

PASSED and APPROVED this 17th day of January, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND CITY OF FARMINGTON, ARKANSAS**

THIS AGREEMENT is entered into this _____ day of _____, 20____, by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF FARMINGTON, ARKANSAS**, concerning the provision of animal sheltering services;

WHEREAS, A.C.A. § 25-20-108, Interlocal Cooperation Act, authorizes public entities to enter into agreements to provide governmental services to the mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and City of Farmington; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to City of Farmington.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by Farmington citizens and designated animal control officers with the term of this agreement to commence January 1, 2006 and remain in effect until December 31, 2006.

Article II

The City of Farmington agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance with its policy by providing a written 30 day notice of cancellation to the Mayor of the City of Farmington. If within the 30 day period, the City of Farmington fails to be in compliance with the operating policy, this agreement is terminated, the City of Fayetteville is no longer obligated under the terms of this agreement, and the City of Farmington is not obligated for the remaining monies owed under this agreement.

Article III

The City of Farmington agrees to pay an annual sheltering services fee of Fifteen Thousand seven hundred and fifty dollars (\$15,750) to the City of Fayetteville in the form of twelve (12) monthly payments of One Thousand Three Hundred twelve dollars and fifty cents (\$1,312.50). Payment shall be due on or before the first day of each month. The annual sheltering services fee shall be based upon the total number of animals delivered to the shelter by Farmington citizens and designated animal control officers during the fiscal year of 2005.

Article IV

For recordation purposes, the City of Farmington's account will be charged or debited at the rate of \$75 as an impound fee for each animal delivered to the animal shelter by Farmington officials during the term of this agreement. In the event an animal is reclaimed by its owner within 24 hours of being delivered to the animal shelter by Farmington officials, the City of Fayetteville will credit the Farmington account for the \$75 impound fee. An additional sum of \$5 per day will be charged to the owners of animals that are impounded for over 5 days at the animal shelter. The City of Farmington is responsible for collecting impound fees from Farmington citizens. The City of Fayetteville is responsible for the collecting the per diem fee of \$5 for each day an animal is impounded beyond the 5-day period.

The parties acknowledge that the City of Farmington is not responsible and its account will not be charged or debited for impound fees for animals delivered to the animal shelter by citizens who do not present a receipt for the payment of impound fees to the City of Farmington. Further, Farmington citizens may not reclaim an animal from the animal shelter without first presenting a receipt for the impound fee and any other fees that may be incurred and charged by the City of Farmington.

Farmington officials will be provided a key and access to the temporary holding kennels and cages at the animal shelter 24 hours a day, seven days a week. Farmington citizens wishing to surrender an animal to the shelter will be provided, upon request, an appointment to deliver the animal with proof of payment of the impound fee.

When an animal is brought to the animal shelter that does not have a collar bearing the owner's name and address, a metal tag evidencing payment of Farmington's annual license fee, proof of payment such as a receipt, or a metal rabies tag issued by a licensed veterinarian, the animal will be held for a period of five(5) days. At the expiration of five days, the animal becomes the property of Fayetteville. At the expiration of five days, will be temperament tested for aggression and made available for adoption. If the animal fails the temperament test, it will be euthanized. When an animal is brought to the animal shelter with a collar bearing

the owner's name and address, a metal tag or other proof that Farmington's annual license fee has been paid, or a metal rabies tag issued by a licensed veterinarian, the animal will be held for a period of ten (10) days. At the expiration of ten (10) days the animal becomes the property of the City of Fayetteville. At the expiration of ten (10) days the animal will be tested for temperament tested for aggression and made available for adoption. If the animal fails the temperament test, it will be euthanized.

Citizens that reclaim their animal must present proof of payment of the impound fee and any additional costs imposed by the City of Farmington. Citizens that reclaim their animal after five (5) days must present proof of payment of the impound fee and any additional costs imposed by the City of Farmington and in addition, are required to pay the animal shelter the sum of five (\$5) per day for each additional day the animal is housed at the animal shelter.

In addition to the annual sheltering services fee, the City of Farmington will be charged and invoiced separately for stray bite quarantine and shipping expenses for rabies testing. Quarantine boarding fees is \$10 per day for 10 days or a shipping charge of \$50 for each animal.

Article V

The City of Fayetteville agrees to provide medical treatment for minor injuries to animals, but will not be responsible for serious injuries to animals delivered to the animal shelter. The City of Fayetteville will provide assistance in drafting animal control ordinances, educational programming, professional consultation regarding animal control matters, and assistance in all other areas necessary and proper to effectuate the highest level of cooperation between the cities of Farmington and Fayetteville.

Article VI

Both parties acknowledge a contract for animal sheltering services between the City of Fayetteville and Washington County, Arkansas. The agreement does not provide for services within the corporate boundaries of any incorporated city in Washington County. The parties further agree that this agreement will terminate in the event the City of Farmington enters into an animal sheltering services agreement with Washington County, Arkansas. In any event, the City of Farmington and the City of Fayetteville shall have the right to terminate this agreement upon providing a 30 day written notice.

Article VII

Neither party may assign its rights or obligations under this Agreement, without the express written consent of the other.

Article VIII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article IX

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article X

The City of Farmington shall indemnify and hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided however, nothing in this agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville and the City of Farmington under the Constitution and Statutes of the State of Arkansas.

Article XI

It is agreed that the failure of any party to invoke any of the available remedies under this agreement for one or more breaches or defaults shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XII

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and executed by the duly authorized agents of the parties, after an affirmative vote of a majority of each city's governing body.

IN WITNESS WHEREOF, the City of Fayetteville and the City of Farmington have executed this Agreement as of the date written above.

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

CITY OF FARMINGTON, ARKANSAS

John Harris 12/21/05

JOHN HARRIS, Mayor

ATTEST:

Jean Swift

JEAN SWIFT, City Clerk

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

A. 4
Washington County Animal Sheltering
Page 1 of 6

1/17/2006

City Council Meeting Date

Jill Hatfield

Submitted By

Animal Services

Division

Police

Department

Action Required:

Approval of Interlocal Agreement with Washington county to provide animal sheltering services to Washington county for 2006.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

1010 0001 4390 00

Account Number

\$

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # 78-05

Original Contract Date:

Original Contract Number:

x Franklin
Department Director

12/28/05
Date

D. P. White
City Attorney

12/29/05
Date

Steve Davis
Finance and Internal Service Director

12/29/05
Date

Sam Corley
Mayor

1/3/06
Date

Received in City Clerk's Office

ENTERED
12/29/05
chp

Received in Mayor's Office

ENTERED
12/29/05
P.A.

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT
BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND
WASHINGTON COUNTY, ARKANSAS TO PROVIDE ANIMAL
SHELTERING SERVICES TO WASHINGTON COUNTY FOR 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 an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2006. A copy of the agreement, 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 Inter-Local Agreement with Washington County, Arkansas.

PASSED and APPROVED this 17th day of January, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

ORDINANCE NO. 2005-75

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

2005 DEC 13 PM 1:52

FILED

BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE APPROVING AN INTERLOCAL
AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE
AND WASHINGTON COUNTY FOR THE PROVISION OF
ANIMAL SHELTERING SERVICES IN 2006.

WHEREAS, the City of Fayetteville and Washington County have
entered into interlocal agreements in the past concerning the provision of animal sheltering
services; and,

WHEREAS, the City of Fayetteville and Washington County are
granted the authority to enter into such Agreement pursuant to Ark. Code Ann. §14-14-910.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS:

ARTICLE 1. That said Interlocal Agreement, a copy of which is
attached hereto and incorporated herein by reference as Exhibit "A" as if set out fully word
for word, is hereby adopted.


JERRY HUNTON, County Judge

12.13.05
DATE


KAREN COMBS PRITCHARD, County Clerk

Sponsor: H. L. Goodwin, Jr.
Date of Passage: December 8, 2005
Votes For: 13 Votes Against: 0
Abstention: 0 Absent: 0

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND WASHINGTON COUNTY, ARKANSAS**

THIS AGREEMENT is entered into this _____ day of _____, 20____, by and between the **CITY OF FAYETTEVILLE**, and the **COUNTY OF WASHINGTON, ARKANSAS**, concerning the provision of animal sheltering services;

WHEREAS, A.C.A. § 14-14-910, Interlocal Cooperation Act, authorizes public entities to enter into agreements to provide governmental services to the mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and Washington County; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to Washington County:

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by designated animal control officers of Washington County.

Article II

Washington County agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

Washington County agrees to pay an annual sheltering services fee of Fifty six thousand four hundred and seventy-five dollars (\$56,475) to the City of Fayetteville in the form of twelve (12) monthly payments of Four thousand seven hundred six dollars and twenty five cents (\$4,706.25). Payment shall be due on or before the first day of each month. The annual sheltering services fee shall be based upon the total number of animals delivered to the shelter by Washington County citizens and designated animal control officers during the previous year.

Article IV

This agreement shall remain in effect until midnight December 31, 2006.

Article V

The City of Fayetteville agrees to provide assistance to Washington County in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the City of Fayetteville and Washington County.

Article VI

Neither the City of Fayetteville nor Washington County may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article VIII

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article IX

Washington County shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or Washington County under the Constitution and Statutes of the State of Arkansas.

Article X

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of

such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XI

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties, after an affirmative vote of a majority of each city's governing body.

IN WITNESS WHEREOF, the City of Fayetteville and Washington County have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

WASHINGTON COUNTY,
ARKANSAS

JERRY HUNTON, County Judge

ATTEST:

KAREN COMBS PRITCHARD, County Clerk

KAREN COMBS PRITCHARD, County Clerk

12-13-05

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

A. 5
Greenland Animal Sheltering
Page 1 of 6

1/17/2006
City Council Meeting Date

Jill Hatfield
Submitted By

Animal Services
Division

Police
Department

Action Required:

Approval of Interlocal Agreement with the City of Greenland to provide animal sheltering services to the City of Greenland for 2006.

N/A	\$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
1010 0001 4390 00	\$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	\$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

x Franklin 12/28/05
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

D.D. White 12/29/2005
City Attorney Date

Original Contract Number: _____

Stephen 12/29/05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 12/29/05

Dan Coody 1/3/06
Mayor Date

Received in Mayor's Office
ENTERED 12/29/05

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE CITY OF GREENLAND, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO THE CITY OF GREENLAND FOR 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 an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2006. A copy of the agreement, 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 Inter-Local Agreement with the City of Greenland, Arkansas.

PASSED and APPROVED this 17th day of January 2006.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

City of Greenland

Resolution # 12-12-05 A

A RESOLUTION APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE CITY OF GREENLAND, ARKANSAS TO PROVIDE ANIMAL SHELTERING SERVICES TO THE CITY OF GREENLAND FOR THE YEAR 2006.

BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENLAND:

Section 1: That the City Council of the City of Greenland hereby approves an inter-local agreement between the City of Fayetteville and the City of Greenland to provide animal sheltering services to the City of Greenland for the year 2006. A copy of the agreement, marked Exhibit "A" is attached hereto, and made part hereof.

Section 2: That the City Council of the City of Greenland hereby authorizes the Mayor and Recorder/Treasurer to execute the Inter-Local Agreement with the City of Fayetteville.

Approved:

By: William Yoes
William Yoes, Mayor

ATTEST:

BY: Donna Cheevers
Donna Cheevers, Recorder/Treasurer

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE,
ARKANSAS AND CITY OF GREENLAND, ARKANSAS**

THIS AGREEMENT is entered into this _____ day of _____, 20____, by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF GREENLAND, ARKANSAS**, concerning the provision of animal sheltering services;

WHEREAS, A.C.A. § 25-20-108, Interlocal Cooperation Act, authorizes public entities to enter into agreements to provide governmental services to the mutual benefit of each entity; and

WHEREAS, effective animal control is of mutual interest to the City of Fayetteville and City of Greenland; and

WHEREAS, the City of Fayetteville possesses the necessary facilities to provide animal sheltering services to City of Greenland.

NOW, THEREFORE, IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

Article I

The City of Fayetteville agrees to provide sheltering services for animals delivered to its shelter, located at 1640 Armstrong Avenue, in the City of Fayetteville, by Greenland citizens and designated animal control officers.

Article II

The City of Greenland agrees to comply with the Fayetteville Animal Shelter's Operating Policy during the term of this Agreement, and understands that the City of Fayetteville may terminate this agreement for noncompliance.

Article III

The City of Greenland agrees to pay an annual sheltering services fee of Two thousand one hundred seventy-five dollars (\$2,175) to the City of Fayetteville in the form of twelve (12) monthly payments of One hundred eighty-one dollars and twenty-five cents (\$181.25). Payment shall be due on or before the first day of each month. The annual sheltering services fee shall be based upon the total number of animals delivered to the shelter by Greenland citizens and designated animal control officers during the previous year.

Article IV

This agreement shall remain in effect until midnight December 31, 2006.

Article V

The City of Fayetteville agrees to provide assistance to the City of Greenland in the form of minor medical treatment while a shelter veterinarian is on staff, the drafting of animal control ordinances, educational programming, professional consultation regarding animal control matters, and in all other areas necessary and proper to effectuate the highest level of cooperation between the two cities.

Article VI

Both Cities acknowledge the existence of a county wide animals sheltering agreement between the City of Fayetteville and Washington County, but which currently excludes the corporate boundaries of any incorporated cities. The Cities agree that this Agreement shall automatically terminate in the event that the City of Greenland enters into an animal sheltering services agreement with Washington County, Arkansas. In any event, either City shall have the right to terminate this Agreement upon Thirty (30) days written notice to the other.

Article VII

Neither City may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article VIII

This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

Article IX

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article X

The City of Greenland shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or the City of Greenland under the Constitution and Statutes of the State of Arkansas.

Article XI

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article XII

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties, after an affirmative vote of a majority of each city's governing body.

IN WITNESS WHEREOF, the City of Fayetteville and the City of Greenland have executed this Agreement on or as of the date first written above.

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

CITY OF GREENLAND,
ARKANSAS

William Yoer
WILLIAM YOES, Mayor

ATTEST:

Donna Cheevers
DONNA CHEEVERS, Recorder/Treasurer

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

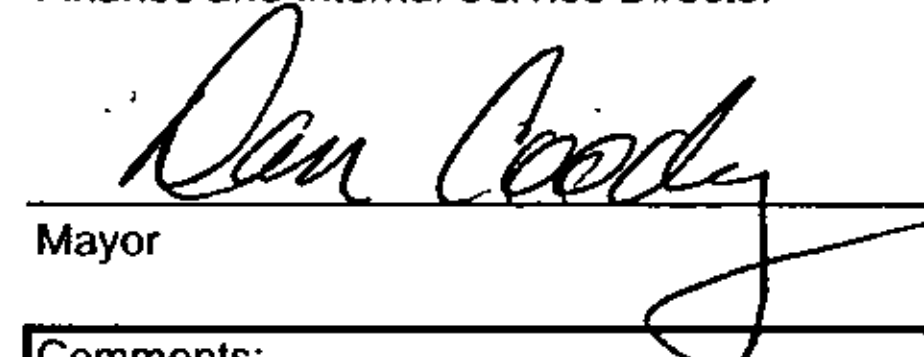
Original Contract Date: n/a


City Attorney 11-18-05
Date

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:

Left on the second reading 11/3/06
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

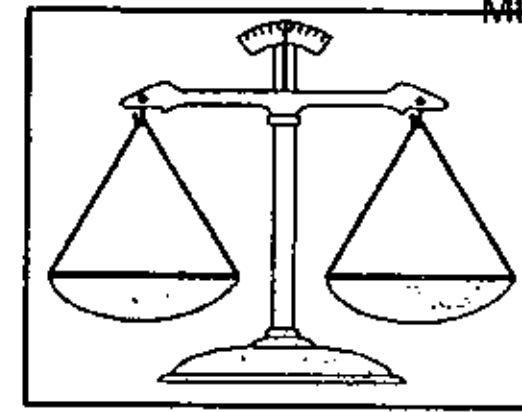
The Planning Commission considered this rezoning petition request on July 25, 2005, on which they voted 9-0-0 in favor of the recommended rezoning. Planning Staff has waited the required 30 days for the RSF-8 zoning district to become law before bringing this rezoning item forward for City Council consideration.

BUDGET IMPACT

None.

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

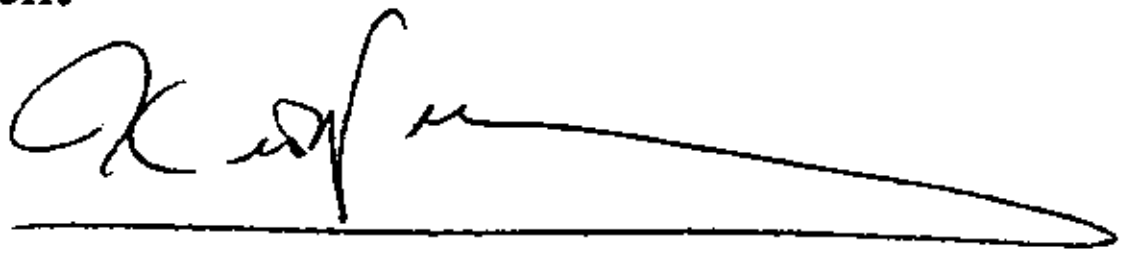
DEPARTMENTAL CORRESPONDENCE



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 REZOING 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:

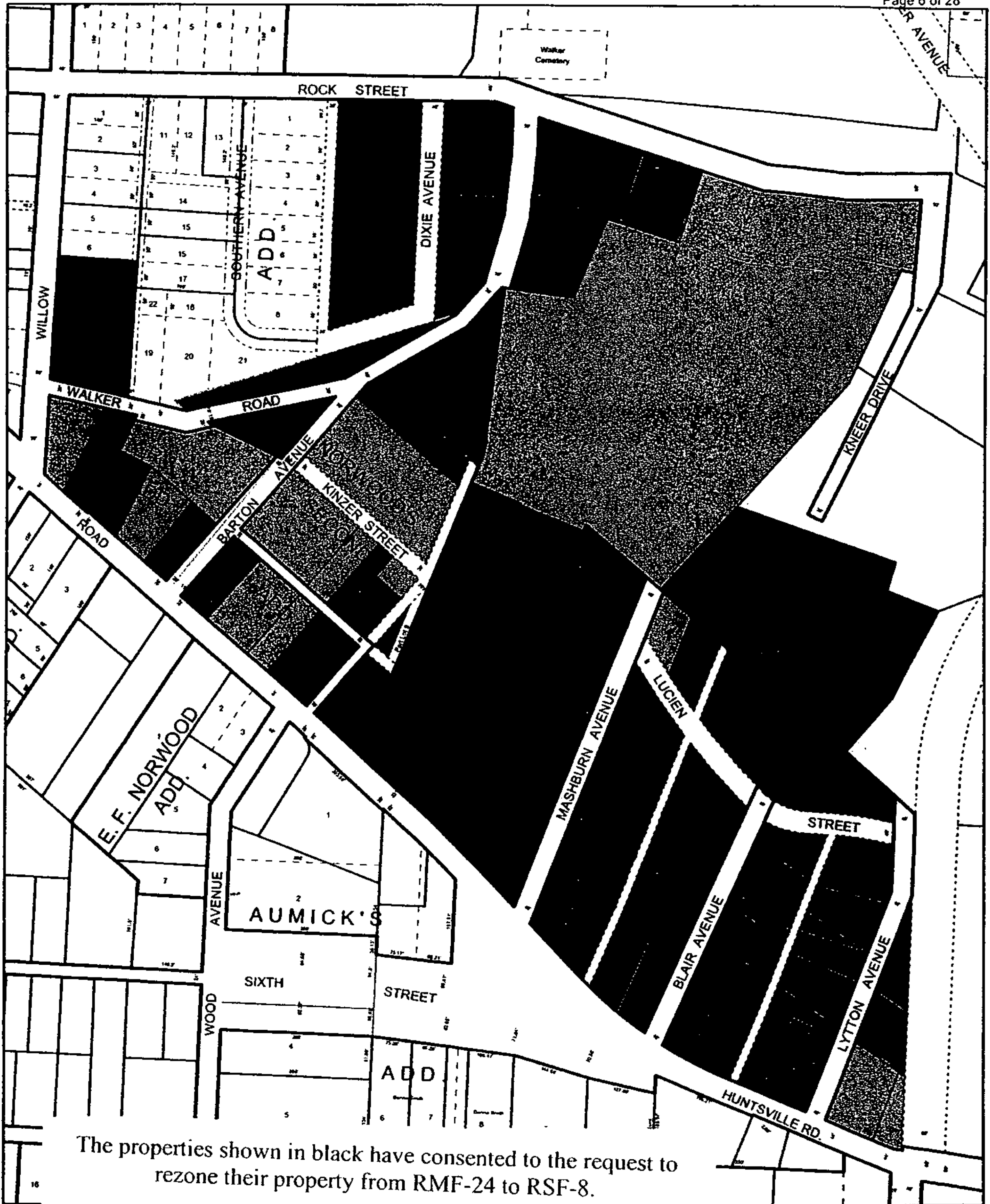
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

B. 1
Mt. Sequoyah Rezoning
Page 6 of 28



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	<u>YES</u>	☒ Approved
			☐ Denied
Date: <u>August 8, 2005</u>			
CITY COUNCIL ACTION	Required	<u>YES</u>	☒ Approved
			☐ Denied
Date: <u>September 6, 2005</u>			

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.
Apartments:	
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
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(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
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(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.
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- (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.

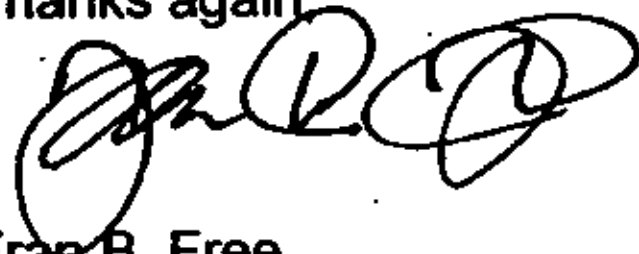
The petition was based on information from Washington County property records as of March, 2005. I've included copies of those records, organized in the order of the petition and a City plat map with shaded parcels of those that have been signed.

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 Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
PZD 00-1599	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

B. 1
Mt. Sequoyah Rezoning
Page 20 of 28

POLICE DEPARTMENT

July 18, 2005

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

Dear Mr Pate:

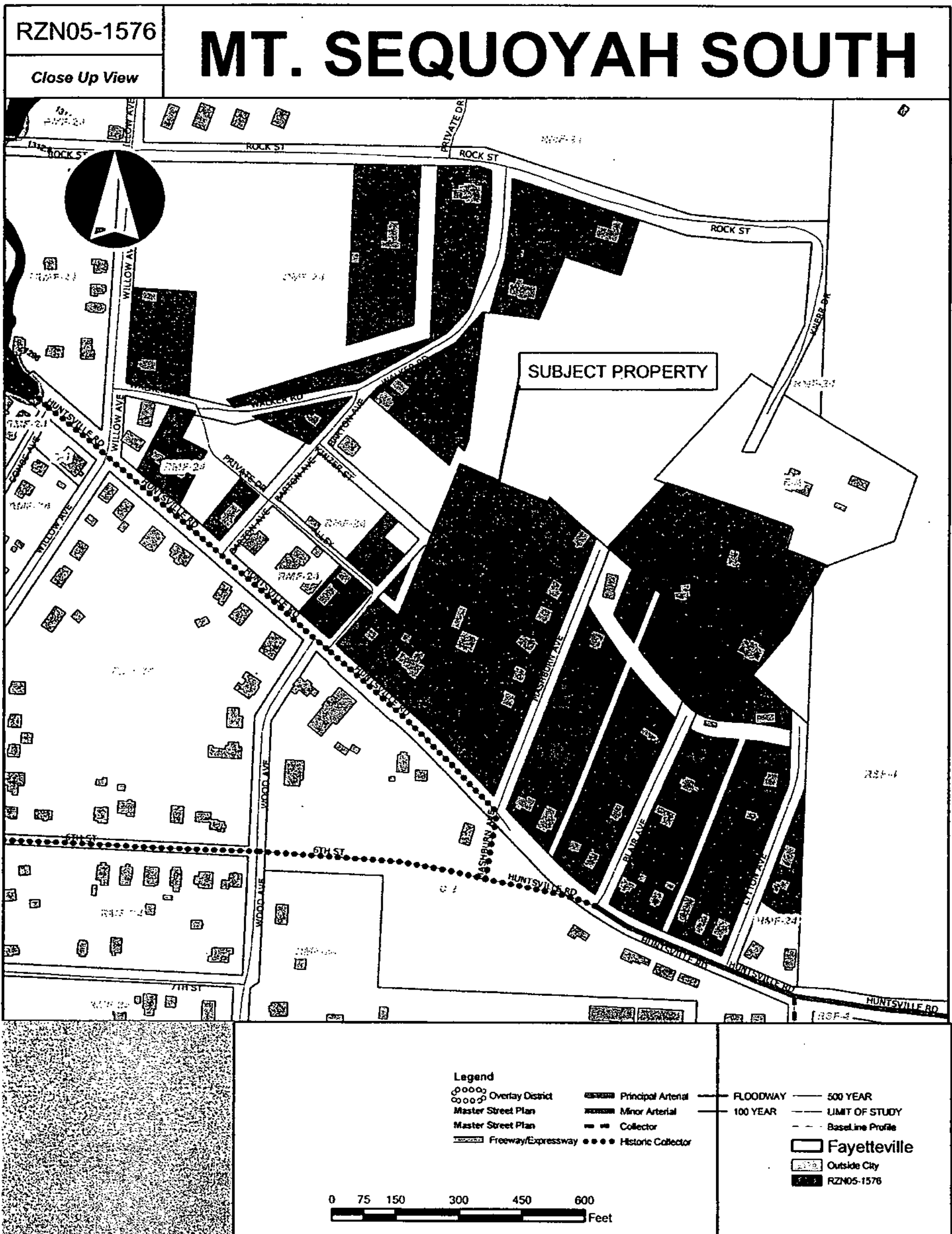
This document is in response to the request for a determination of whether the proposed RZN 05-1576 (Mt. Sequoyah South, 524) submitted by Fran Free for property owners in the designated area for various properties located between Huntsville Road, east to Lytton Avenue, north to Rock Street and west 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", is written over the word "Sincerely,".

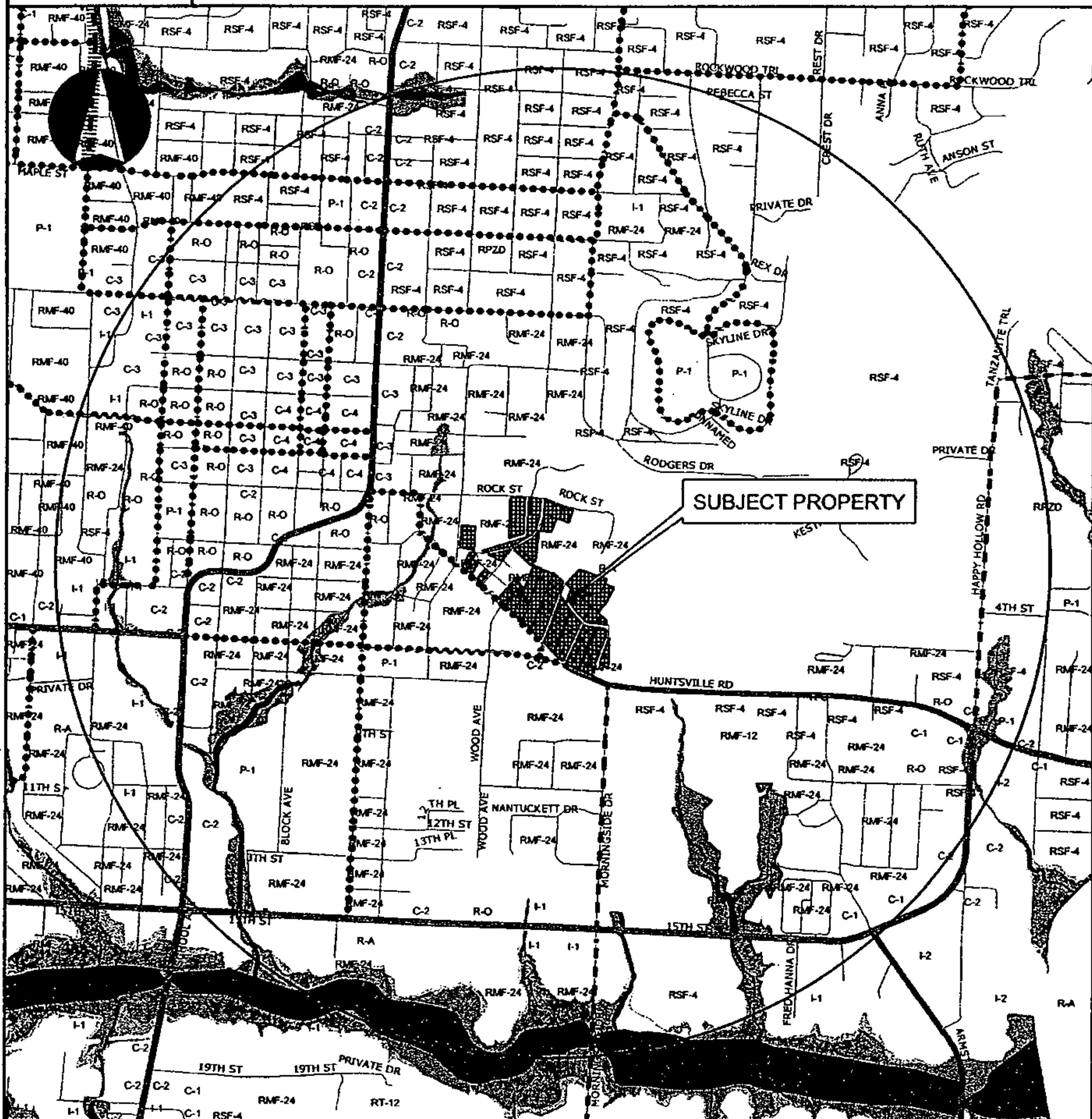
Lieutenant Rob Turberville
Fayetteville Police Department



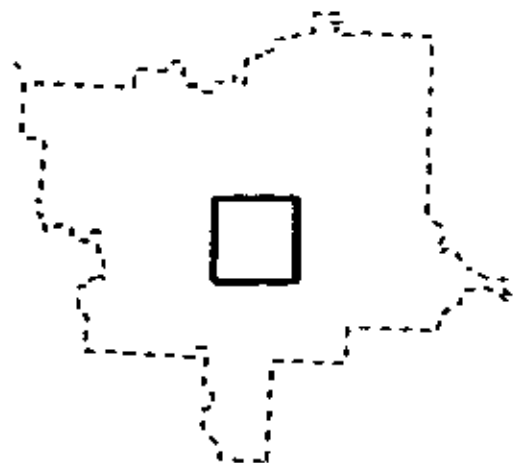
RZN05-1576

MT. SEQUOYAH SOUTH

One Mile View



Overview



Legend

Subject Property

RZN05-1576

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25

0.5

0.75

1

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.

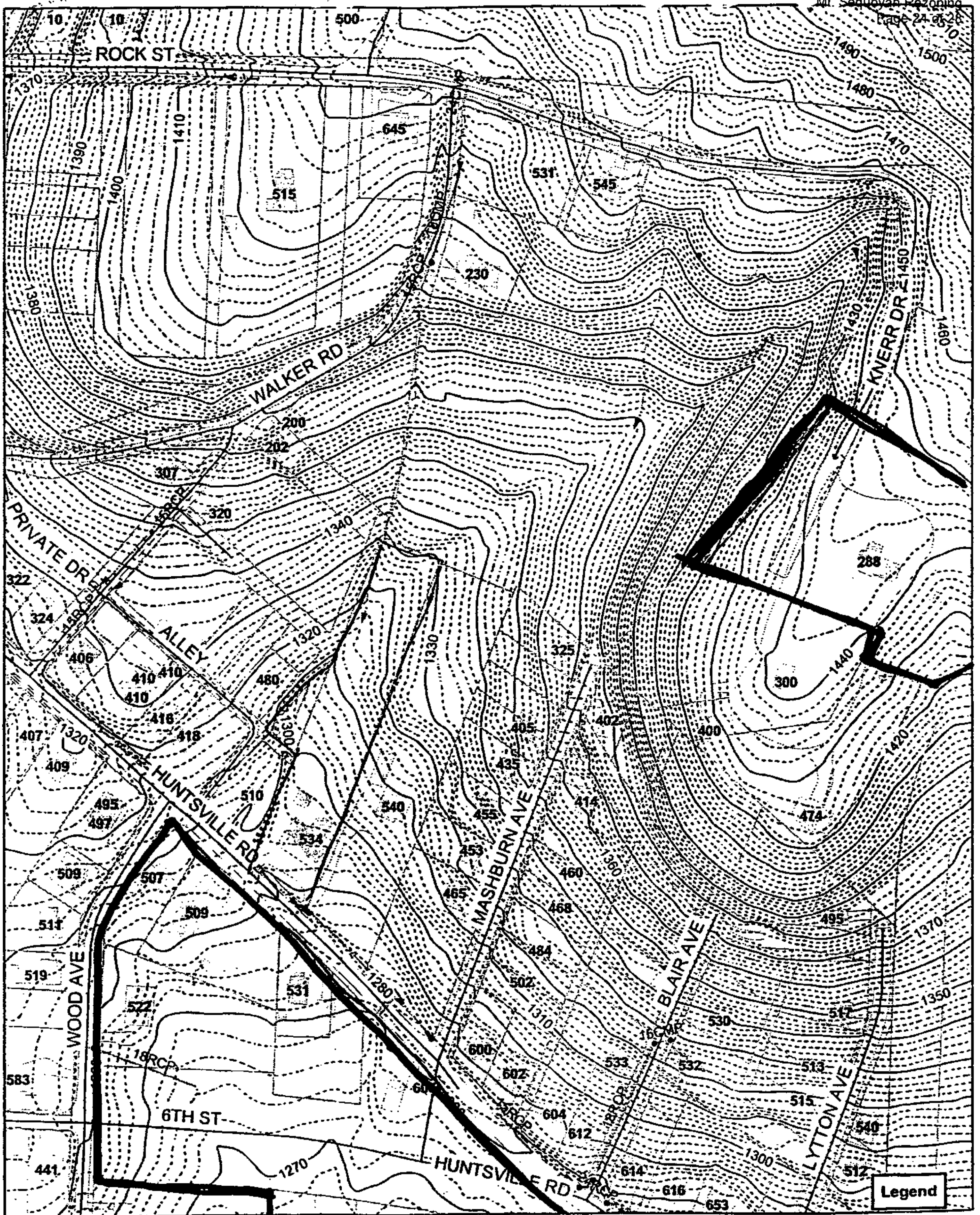
They will then present our proposal to the Planning Commission.

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.

THE TIMES

FRIDAY — May 6, 2005

Diamond Hogs needing wins 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. Springdale, by comparison, spent \$5,927 per pupil, Rogers spent \$6,105 and 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, and recreation, he 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 district has also been regularly recognized by Expansion Management magazine as one of the nation's top school districts.

The district has also been regularly recognized by Expansion Management 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 found Randy Grizzle not guilty of second-degree murder as well as lesser and included charges of manslaughter and negligent



Neighbors band together to 'downzone' neighborhood

BY MARSHA L. MELNICHAM
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.

Slope is the primary reason for the rezoning effort, said Fran Free, one of the neighbors behind the petition drive now underway.

"Right now, you can drive down our streets and see the trees leaning downhill, and the power lines, and the foundations. The neighbors just don't believe that hillside

See DOWNTOWN, page A5

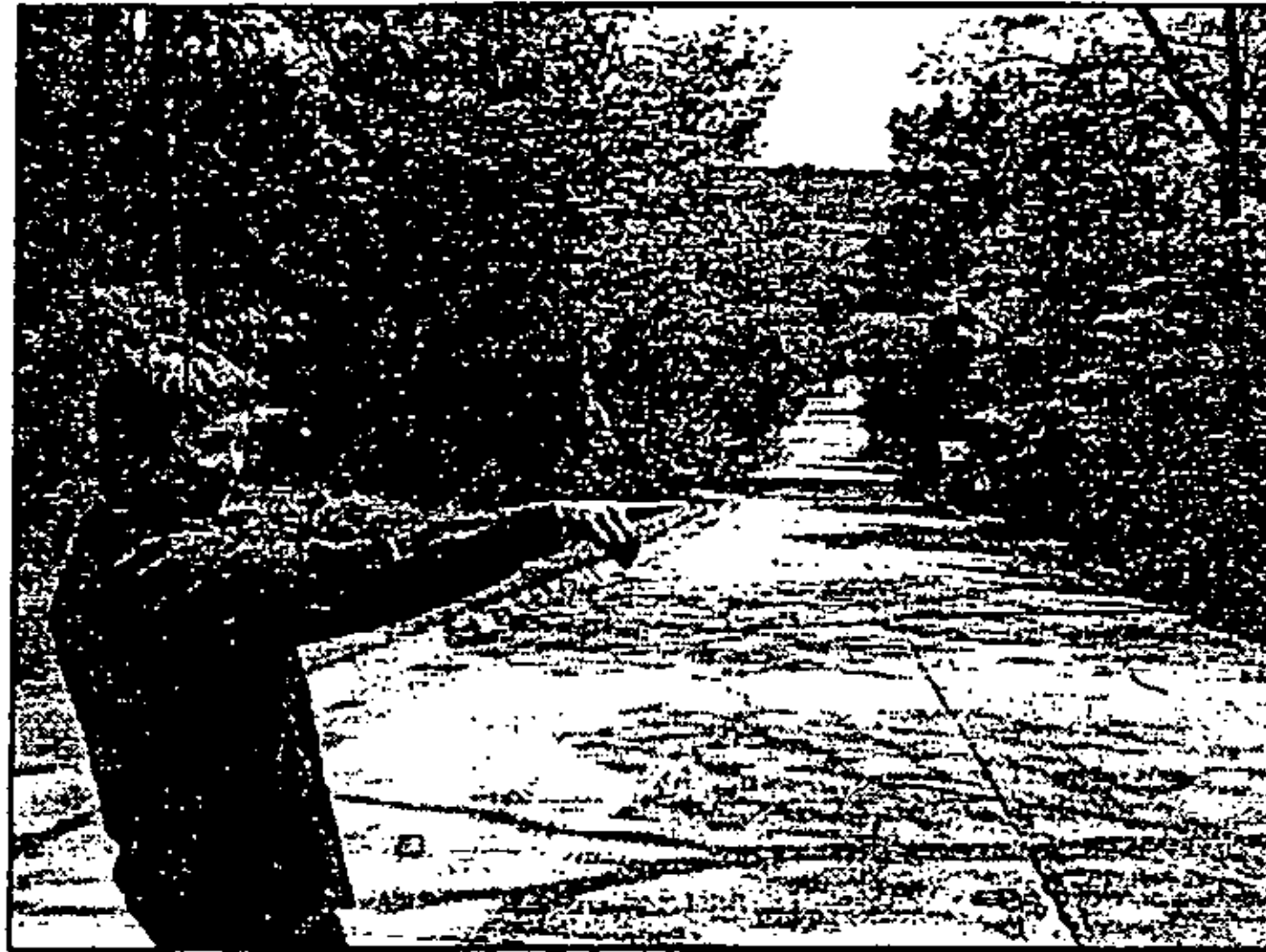
Downzone

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

Submitted By

Engineering

Division

Operations

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

Cost of this request

4470.9470.5809.00

02116

Project Number

\$ 559,143.00

Category/Project Budget

\$ 337,632.06

\$ 221,510.94

Remaining Balance

Street ROW / Intersection /
Cost Sharing

Program Category / Project Name

Street Improvements

Program / Project Category Name

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

Received in City Clerk's Office



12/2/05

Finance and Internal Service Director

Received in Mayor's Office



Mayor

12/5/05
Date

Comments:

Left on the second reading 1/3/06
Left on the First Reading 12/20/05

City Council Meeting of December 20, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations *GD*

From: Ron Petrie, City Engineer *RSP*

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

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

B. 2
Reserve LLC-Cost Share
Page 5 of 22

Budget Year 2005	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 12/20/2005	Adjustment Number
-------------------------	---	----------------------------------	-------------------

Project or Item Added/Increased: \$577,453 is requested in the Street Improvements account of the Street ROW/Intersection/Cost Sharing capital project.	Project or Item Deleted/Reduced: None. \$577,453 is proposed from the Use of Fund Balance in the Sales Tax Capital Improvements Fund.
---	---

Justification of this Increase: Funding is needed for a street cost share with Reserve, LLC for the widening of Ruppel Road and Persimmon Street.	Justification of this Decrease: Sufficient funding remains to comply with City policies. The Street ROW/Intersection/Cost Sharing capital project will be reduced by this amount in 2006.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	577,453	02116	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	577,453		

Approval Signatures

Budget Office Use Only

Paul Libertini 12/2/05
Requested By Date

Type: A B C D E

Budget Manager Date

Date of Approval

Initial Date

[Signature] 12-2-05
Department Director Date

Posted to General Ledger

Initial Date

[Signature] 12-5-05
Finance & Internal Services Director Date

Posted to Project Accounting

Initial Date

Mayor 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.

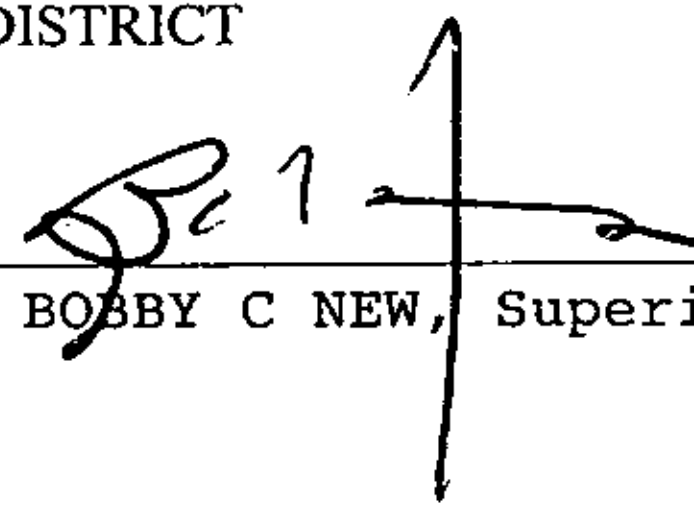
- C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between the Fayetteville Public School District and their Contractor and that the City has 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 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.

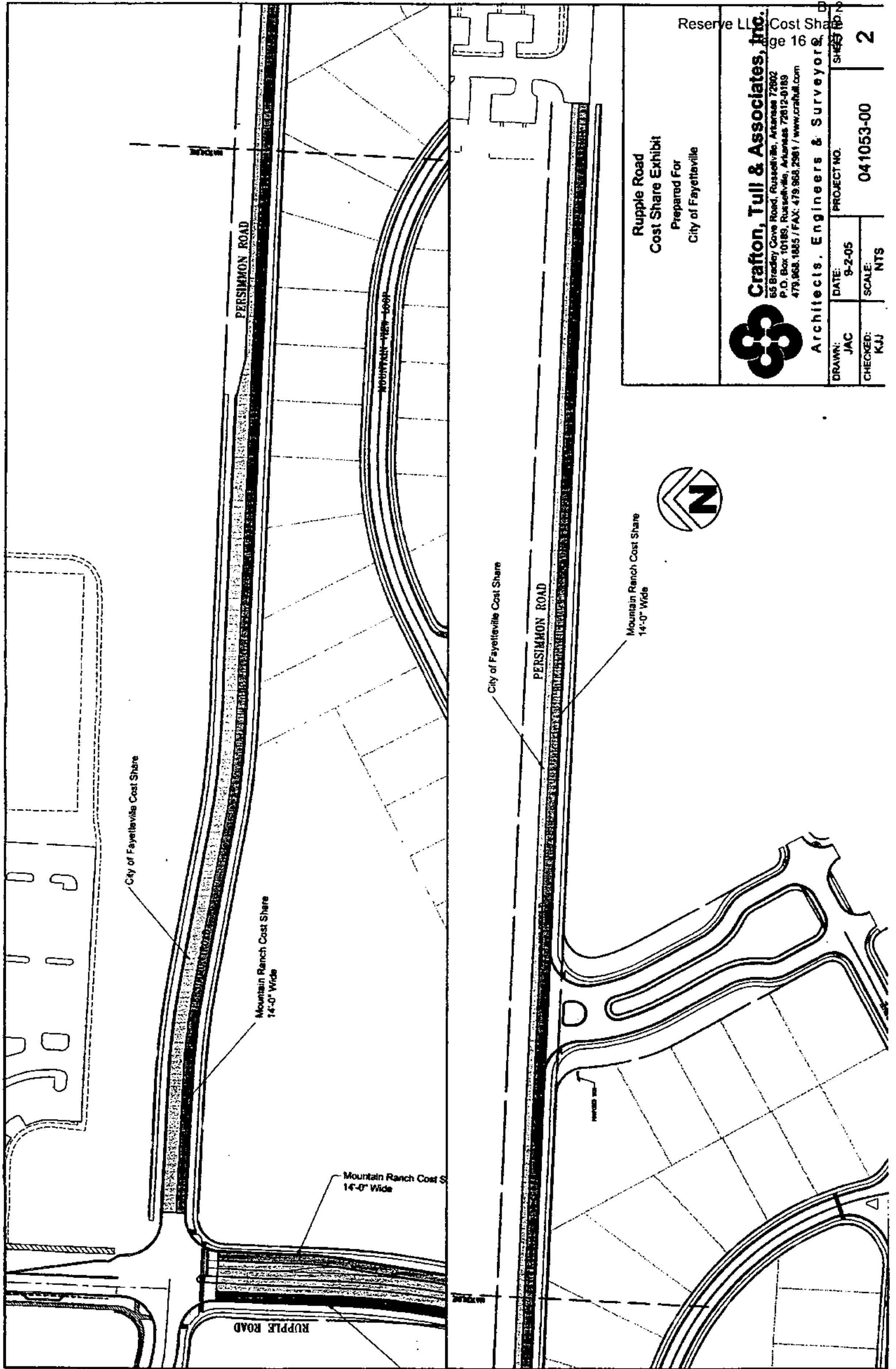
Tom Terminella said he is constructing and cost sharing a half a dozen improvements with seven different cities right now. He made certain assumptions based on his experience in this area. He said he would have clarified immediately if anyone had said anything about paying for and constructing the improvement. 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

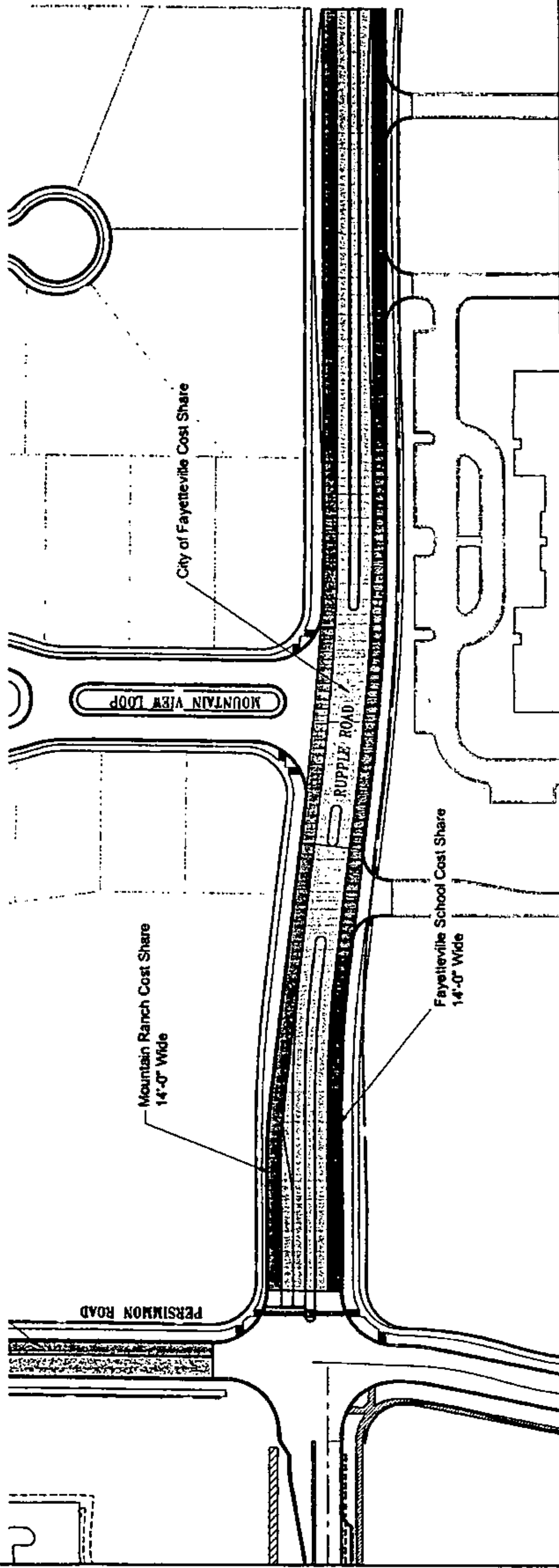


Crafton, Tull & Associates, Inc.
65 Bradley Cove Road, Russellville, Arkansas 72802
P.O. Box 10189, Russellville, Arkansas 72812-0189
479.968.1865 / FAX: 479.968.2581 / www.crafton.com

Architects, Engineers & Surveyors

DRAWN: JAC	DATE: 9-2-05	PROJECT NO. 041053-00	SHEET NO. 2
CHECKED: KJJ	SCALE: NTS		

Reserve L.L. Cost Share



Ruppel Road
Cost Share Exhibit
Prepared For
City of Fayetteville



Crafton, Tull & Associates, Inc.
55 Bradley Cove Road, Russellville, Arkansas 72802
P.O. Box 10189, Russellville, Arkansas 72812-0189
479.968.1885 / FAX: 479.968.2861 / www.crafton.com

Architects, Engineers & Surveyors

PROJECT NO.

041053-00

DATE:

9-2-05

DRAWN:

JAC

CHECKED:

KJU

SCALE:

NTS

SHEET NO.

1

Reserve Lot - Cost Share
Page 17

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: Dan Coody, Mayor
City Council

CC: Tim Conklin, Planning & Development Management Director
Jeremy Pate, Director of Current Planning

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: December 20, 2005

RE: Terminella's additional (early) commitment
to dedicate right of way for Ruppel Road

As part of the consideration offered by Mr. Terminella and his co-owners to clear up any question that the City might have to buy right of way for Ruppel Road with Road Bond funds (if the adjoining Mountain Ranch phase is not yet developed), Mr. Terminella has agreed to a dedication of this additional right of way at no cost to the City.

Attached to this memo is a copy of this Agreement requested by the City and signed by Mr. Terminella. It would be advantageous to the City to secure this type of commitment from all the other landowners/developers along the Ruppel Road corridor as shown on the Master Street Plan to ensure no tax dollars will have to be used to pay for right of way when Ruppel Road is built to boulevard standards south of Persimmon to Sixth Street.

Just as Mr. Terminella and the Fayetteville School District are cost sharing with the City to build the first section of Ruppel south of Persimmon, developers bringing in developments abutting the future Ruppel

Road should also cost share with the City to extend Ruppel as a boulevard toward Highway 62 (Sixth Street).

**AGREEMENT TO DEDICATE LAND
TO THE CITY OF FAYETTEVILLE FOR THE EXTENSION
OF RUPPLE ROAD SOUTH ALONG THE BORDER OF
THE MOUNTAIN RANCH DEVELOPMENT**

On this 20th day of December, 2005, the City of Fayetteville and Tom Terminella hereby agree as follows:

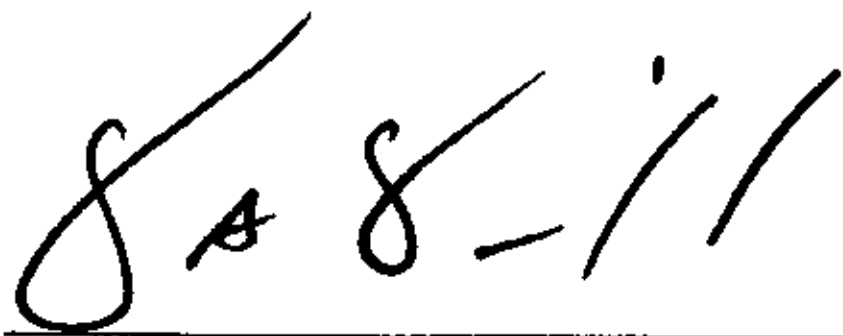
In consideration for the City Council's approval of the cost share with Tom Terminella for the construction of Ruppel Road to the southern boundary of the development and the construction of Persimmon Road from Ruppel Road to its intersection with Betty Jo Drive; Tom Terminella, for himself and for the Mountain Ranch developers and owners, agrees to dedicate to the City of Fayetteville (without cost to the City of Fayetteville) 55 feet from the western border of his property from the southern border of PPL 05-1509 (Preliminary Plat of Mountain Ranch Phase One) to the southern border of his property for purposes of construction of Ruppel Road as a boulevard. Attached as Exhibit A is a depiction of the area that will be dedicated.

Mr. Terminella agrees, for himself and all other owners of this property, that this dedication shall occur at the earliest of either:

(1) When the City of Fayetteville determines to construct the Ruppel Road Boulevard upon this area pursuant to the Master Street Plan; or

(2) When the land currently owned by Mr. Terminella (and others he represents) is accepted by the City for development through a Final Plat or otherwise.

In agreement with all terms and promises stated above, the parties sign their names below:



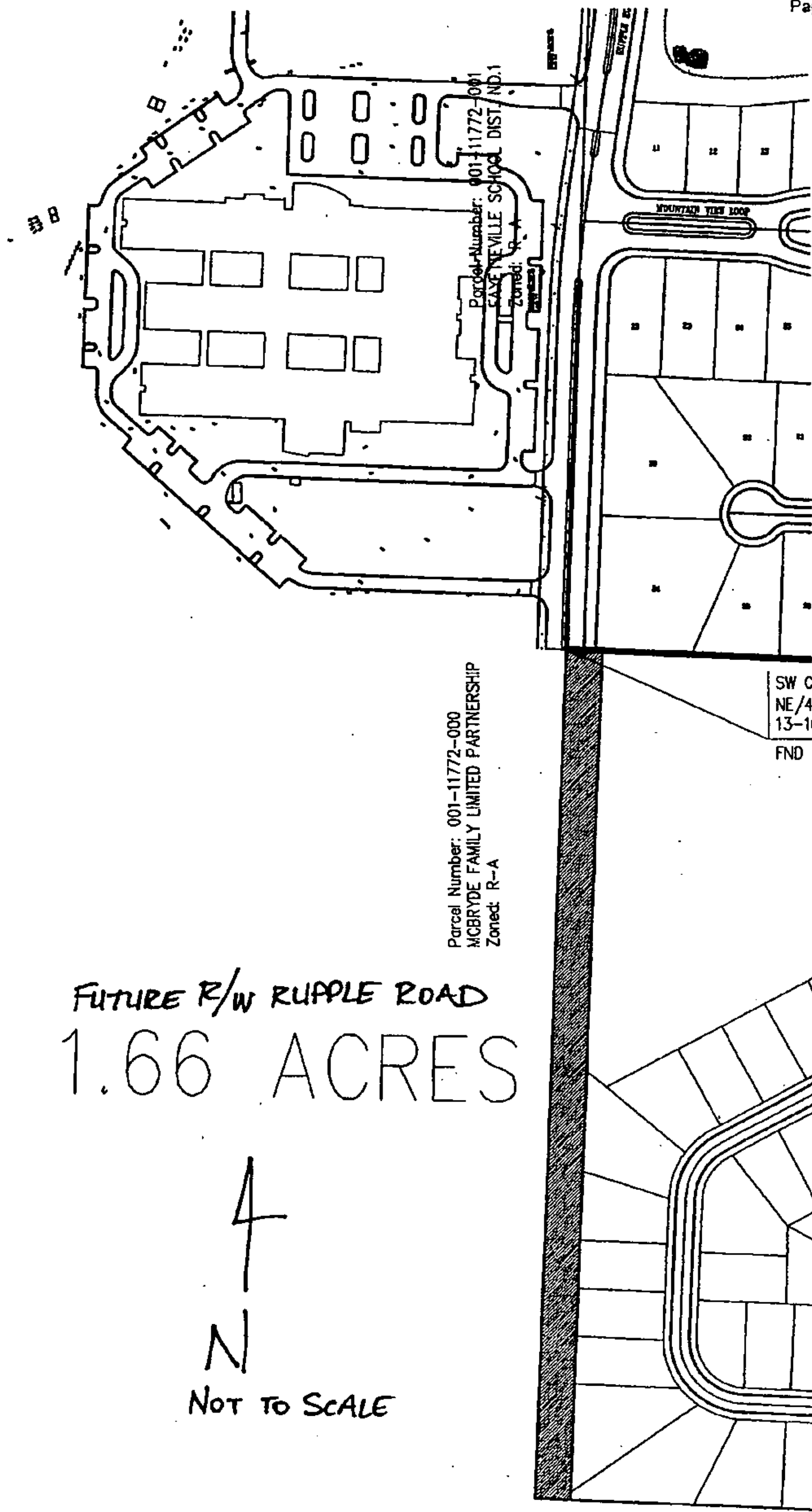
TOM TERMINELLA
Personally and for Mountain Ranch
and all of its current owners

CITY OF FAYETTEVILLE

By: **DAN COODY**
Mayor

ATTEST:

SONDRA SMITH, City Clerk



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

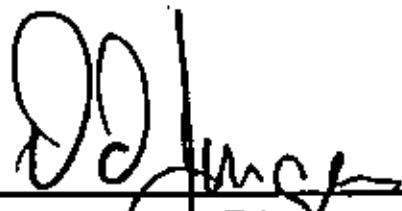
\$ 113,011,587.00
Category/Project Budget
\$ 85,742,915.94
Funds Used to Date
\$ 27,268,671.06
Remaining Balance

Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item

XX

Budget Adjustment Attached


Department Director

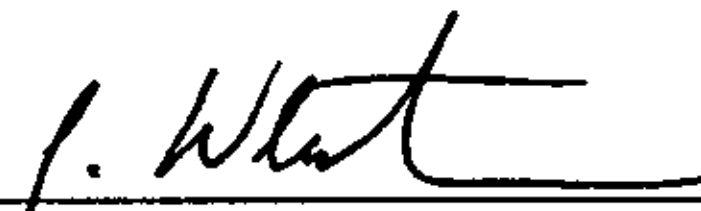
2 Dec 05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney


Finance and Internal Service Director

12/5/05
Date


Finance and Internal Service Director

12/5/05
Date


Mayor

12/6/05
Date

Received in City Clerk's Office

ENTERED
12/21/05
60

Received in Mayor's Office

ENTERED
12/5/05
PH

Comments:

Tabled to 1/17/06 CC mtg 1/3/06
Tabled to 1/3/06 CC mtg 12/20/05

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

WSIP West Line Easement Condemnation List

B. 3
John D Lindsey Condemnation
Page 4 of 20

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.)

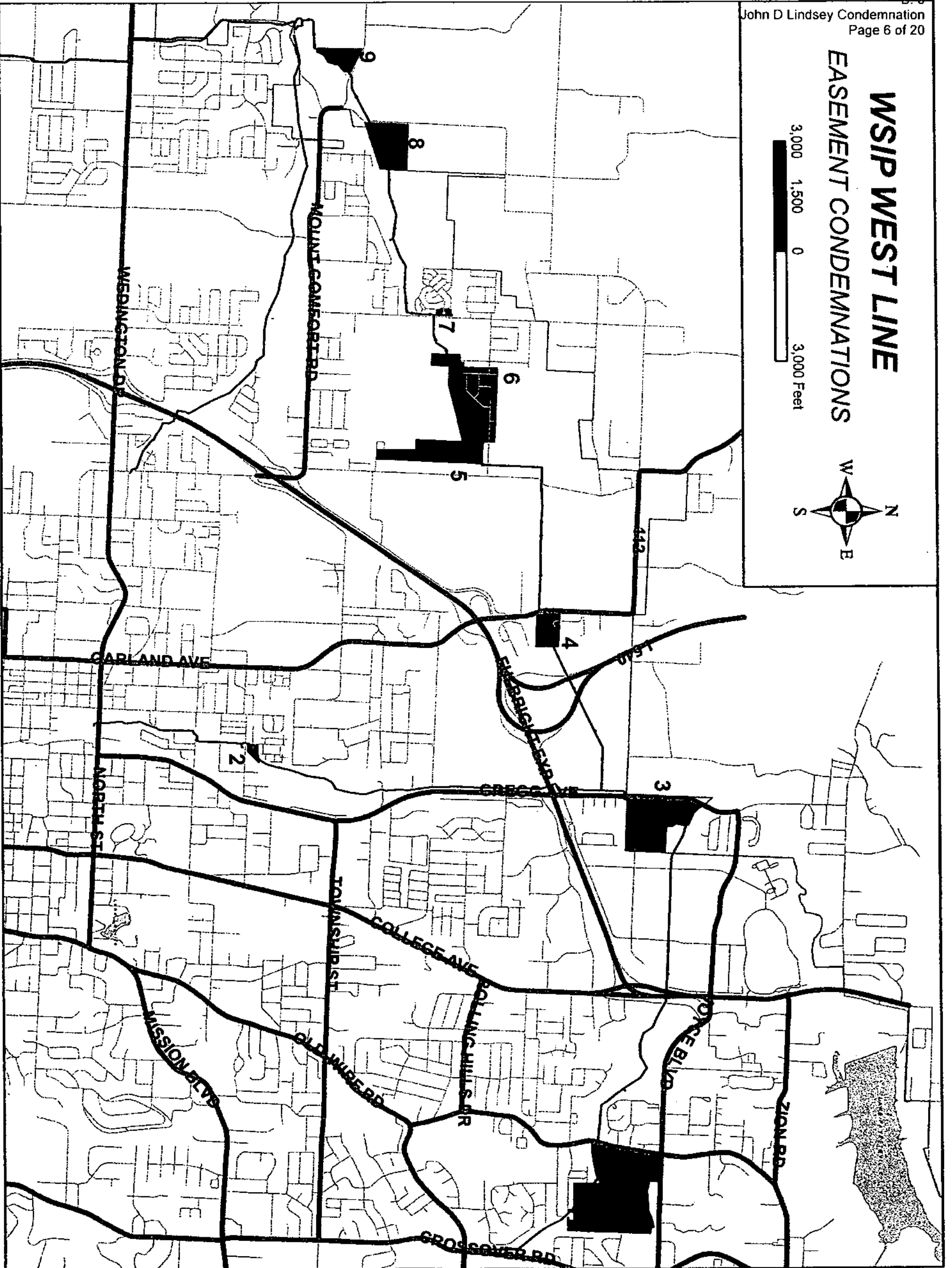
WSIP West Line Easement Condemnation List

B. 3
John D Lindsey Condemnation
Page 5 of 20

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



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

City Council Meeting of January 3, 2006

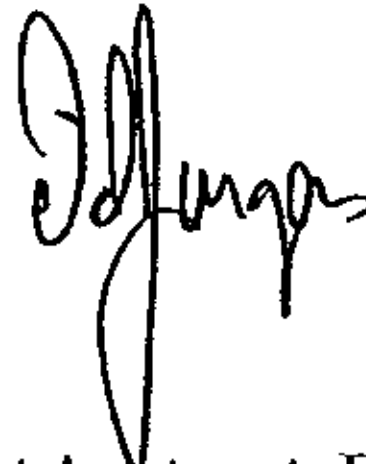
CITY COUNCIL AGENDA MEMO

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

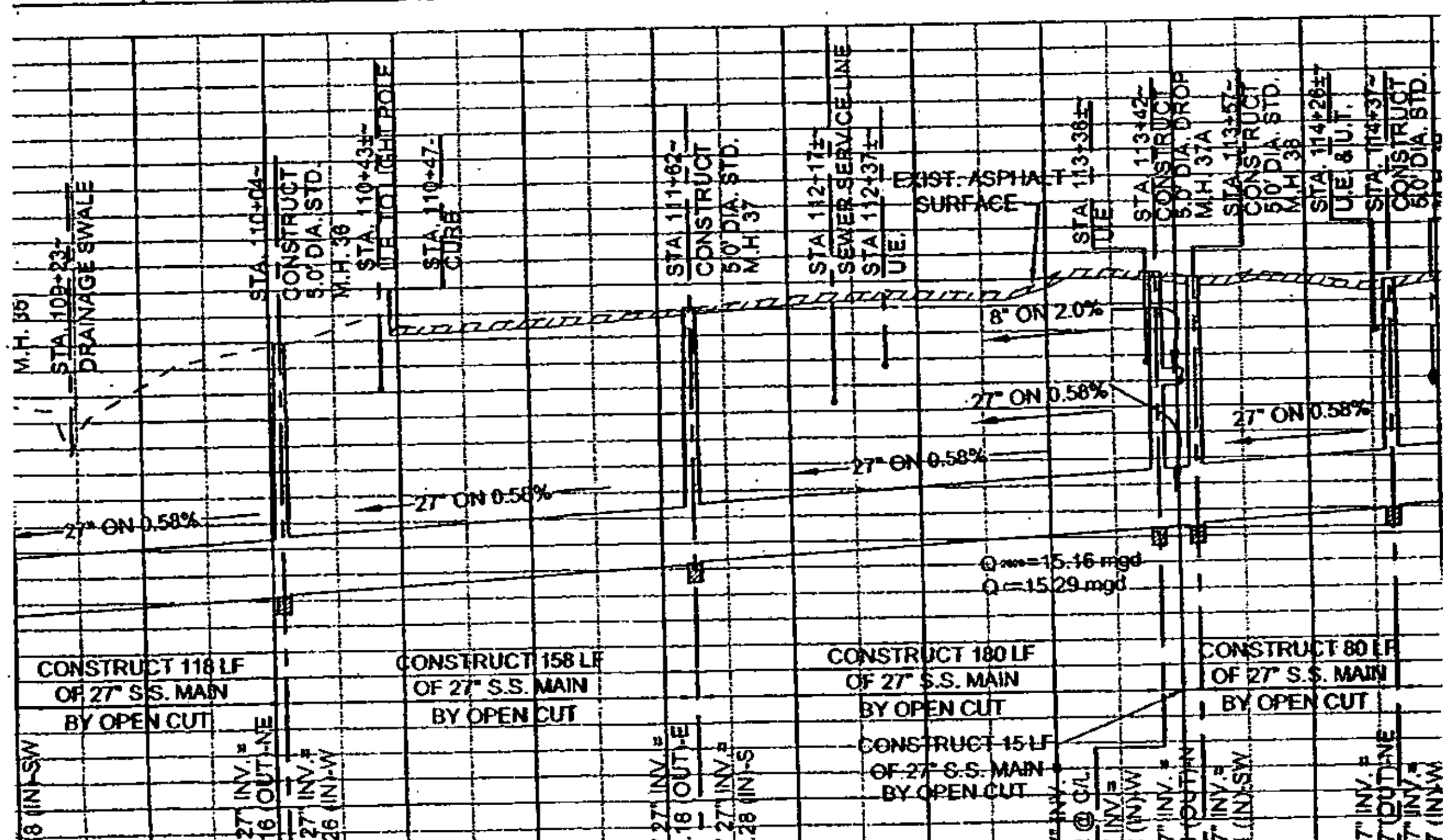
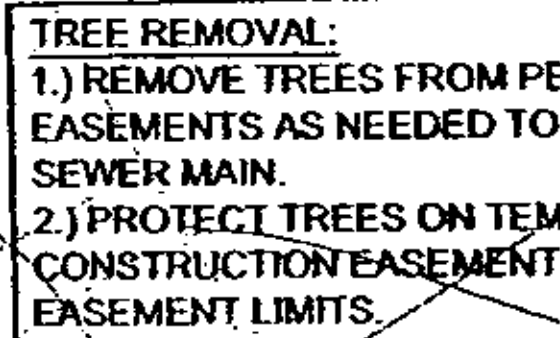
Tabled to the 1/17/06 CC mtg 1/3/06

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.

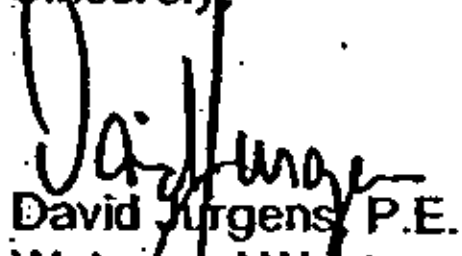
Dear Mr. Elsass:

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	<u>\$3,818,500*</u>	<u>\$3,818,500*</u>
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
State Certified
General Appraiser #CG0202G0202

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 Year of 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 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:

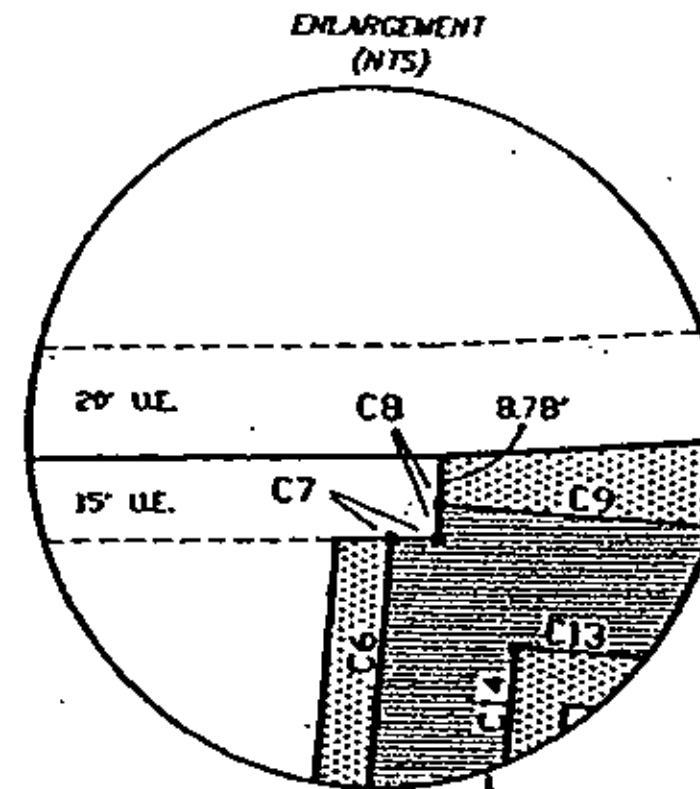
Notary Public

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

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

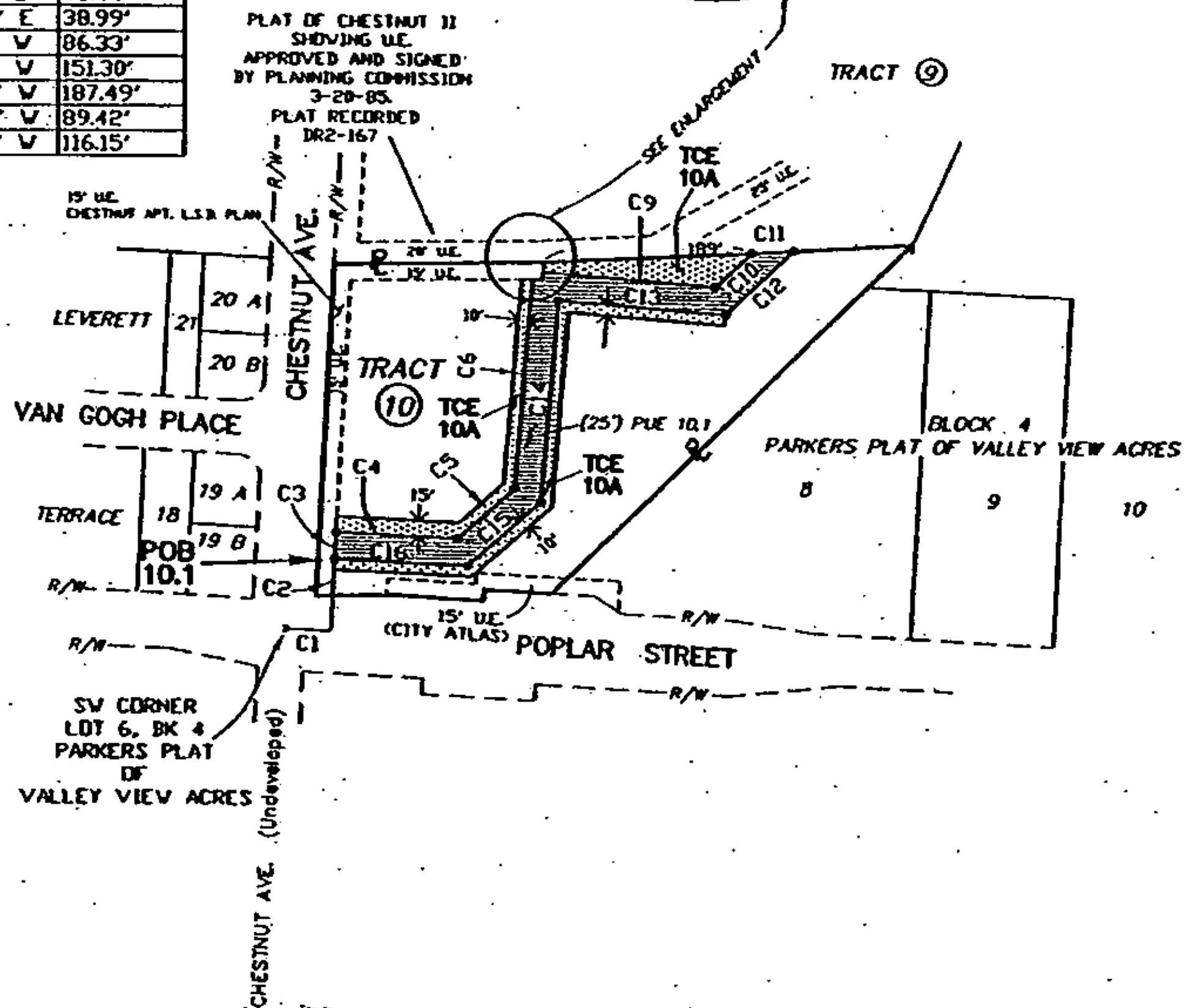
LINE TABLE

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'



SCALE: 1" = 200'

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
- Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

City of Fayetteville 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*
E-mail from RJN Group, Inc.	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

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

3-Jan-06
City Council Meeting Date

Jeremy Pate *JP*
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]
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
Date

Received in City Clerk's Office
[Stamp: ENTERED 12/16/05]

[Signature]
Finance and Internal Service Director
12-16-05
Date

Received in Mayor's Office
[Stamp: ENTERED 12/16/05]

[Signature]
Mayor
12/16/05
Date

Comments:

Left on the second reading 1/3/06

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

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

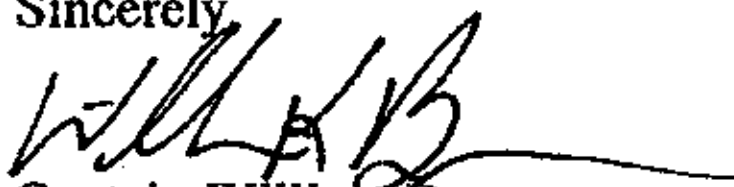
Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

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}
Parcel: Circle Return by: _____

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

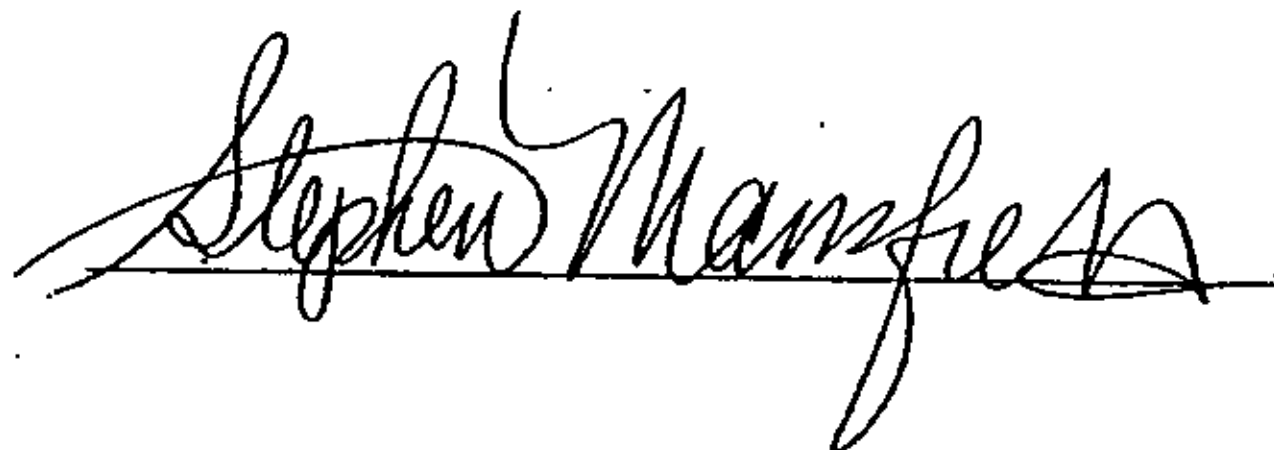
BEING IN THE CENTER OF AN EXISTING DRAINAGE DITCH; THENCE LEAVING SAID RIGHT-OF-WAY ALONG THE CENTER LINE OF SAID DITCH THE FOLLOWING BEARINGS AND DISTANCES:

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

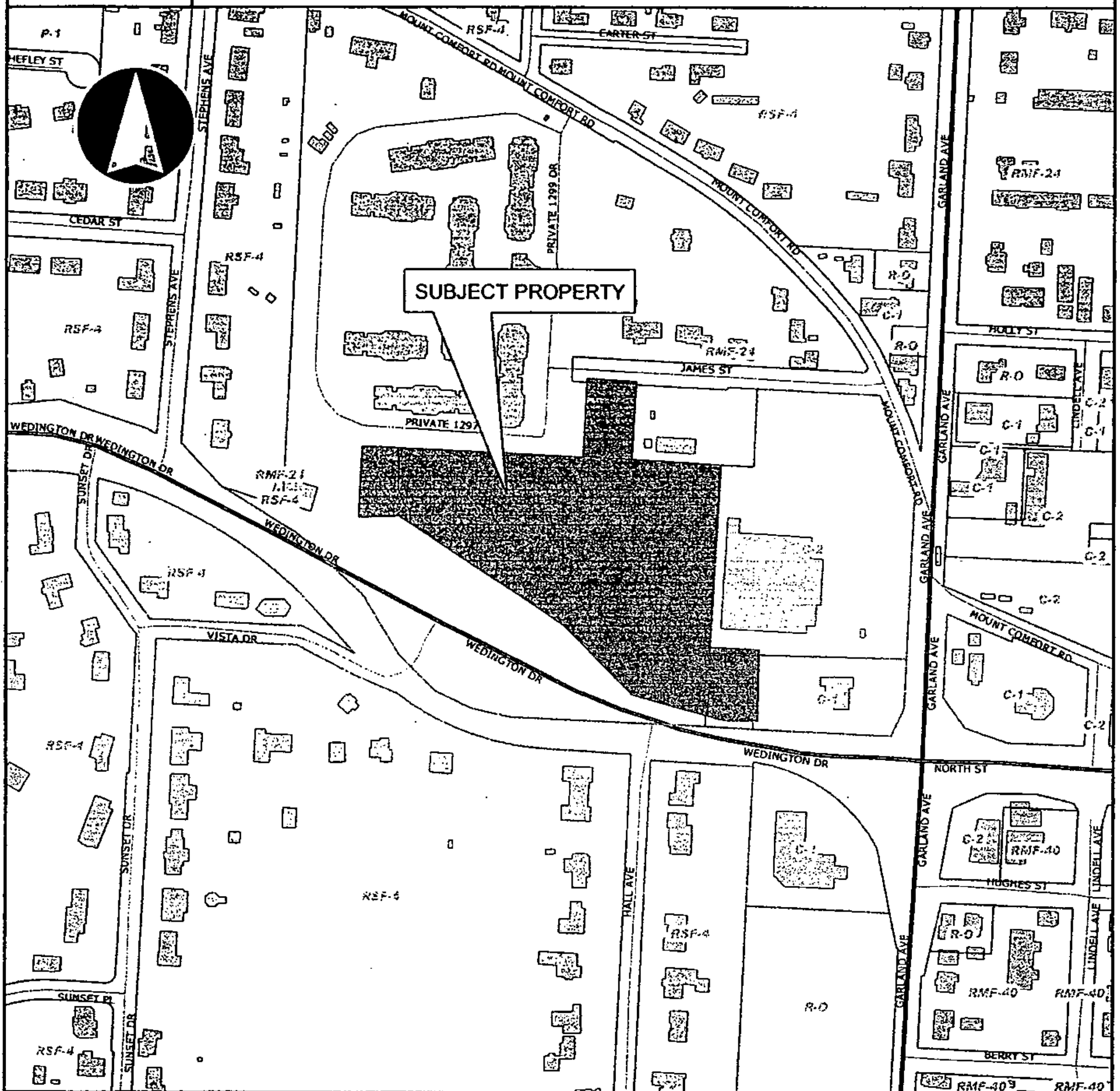
Wedington Circle is located on one of the few remaining vacant parcels in the northwest sector of Fayetteville. The transportation system appears to be sufficiently built-out at this time to accommodate the project traffic in the peak hours with little or no effect on traffic and intersection operation.

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

- ooooo Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD05-1776
- vector.GDB.Footprint_2004

0 125 250 500 750 1,000 Feet

Miles

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

3-Jan-06
City Council Meeting Date

Jeremy Pate *JP*
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 ☐

[Signature]
Department Director

12-16-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney

12-16-05

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
ED

[Signature]
Mayor

12/16/05
Date

Received in Mayor's Office
ENTERED
12/16/05
PH

Comments:

Left on the first reading 1/3/06

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

PLANNING DIVISION CORRESPONDENCE

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

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 various 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
Meeting Date: <u>December 12, 2005</u>	<i>Motion:</i> Clark
	<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 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. 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,

A handwritten signature in black ink, appearing to read "William Brown".

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.

*Correct
info*

EXHIBIT "A"

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

Oct 24 2005 2:26PM

14) 443-3383

B. 5
R-PZD 05-1796 Park West
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*Correct
Copy*

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.



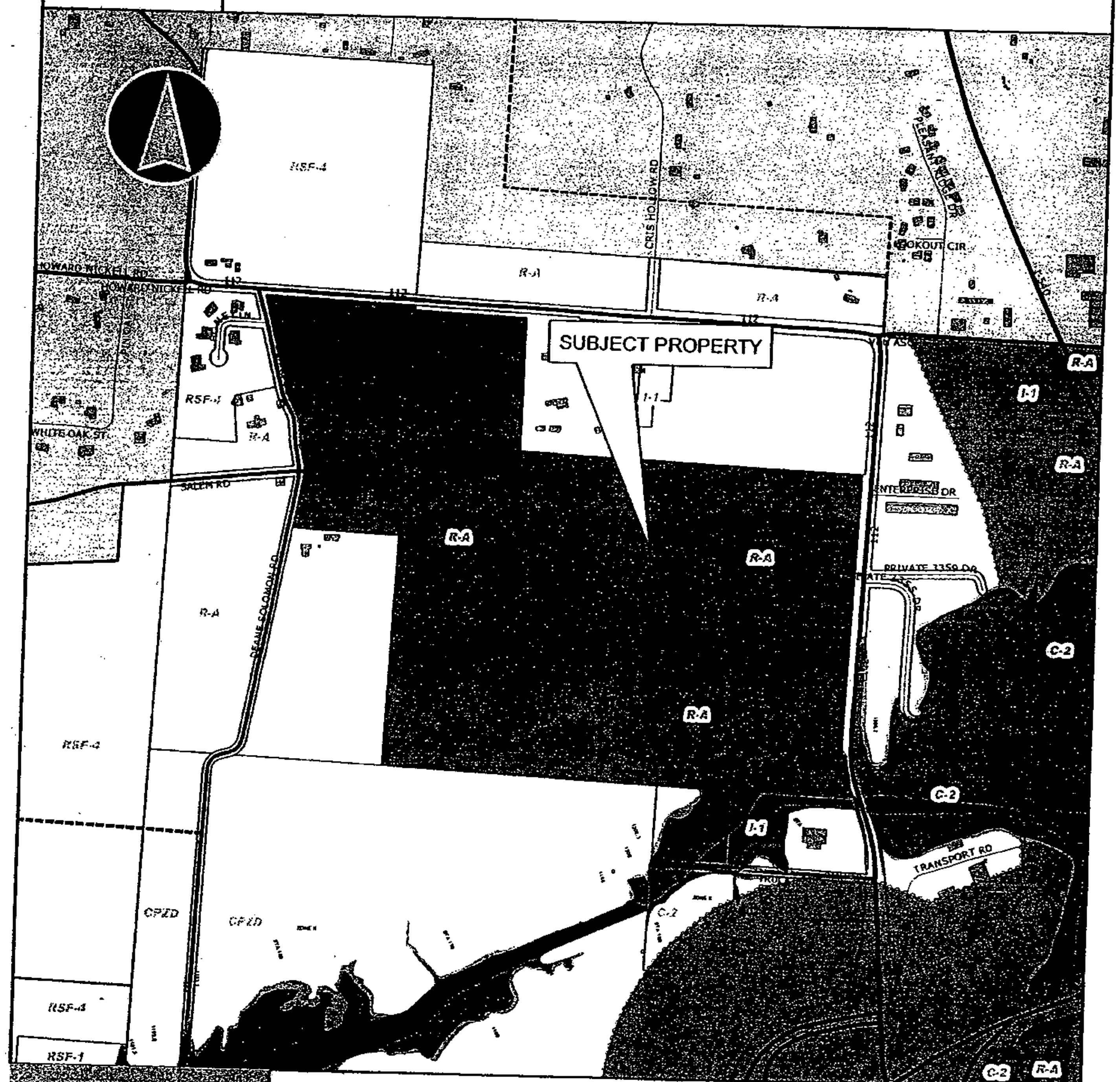
Tracy K. Hoskins

FAX - 575-8202

RPZD05-1796

Close Up View

PARK WEST



Legend

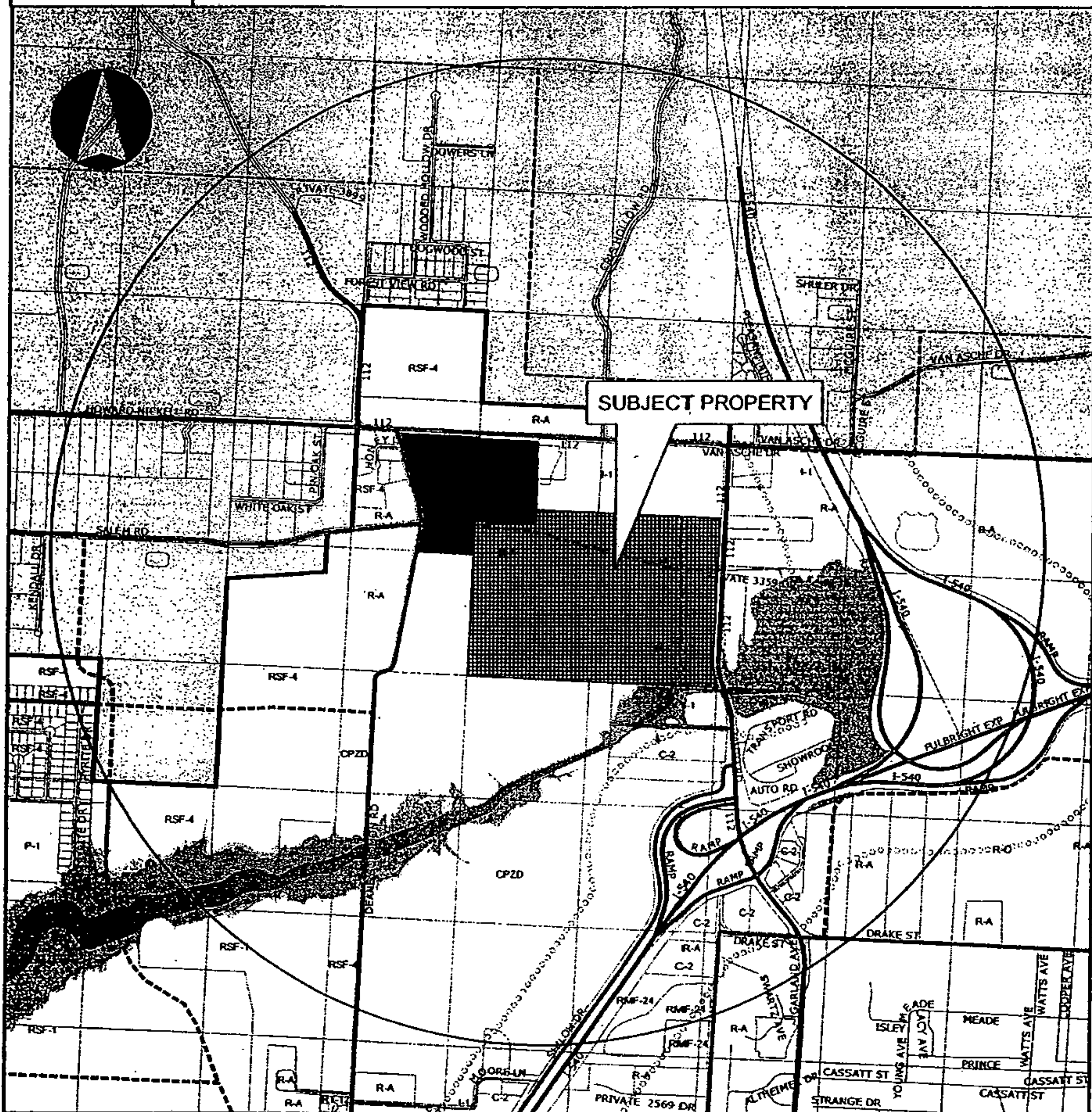
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD05-1796
- vector.GOB.Footprint_2004

0 300 600 1,200 1,800 2,400
Feet

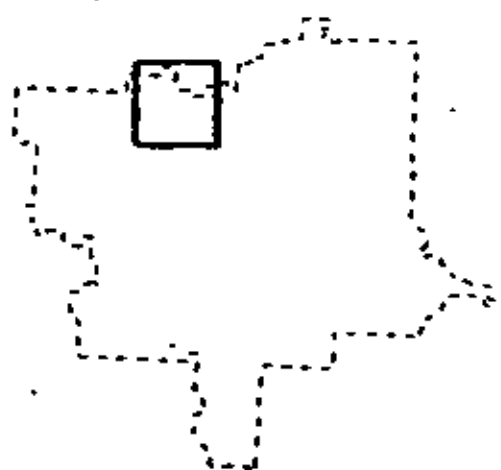
RPZD05-1796

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 *JP*
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 ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
Department Director

12.15.05
Date

[Signature]
City Attorney

12-16-05

[Signature]
Finance and Internal Service Director

12-16-05
Date

[Signature]
Mayor

12/16/05
Date

Received in City Clerk's Office



Received in Mayor's Office



Comments:

Let + on the first reading 1/3/06

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 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 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	Buffers and Screening
	I-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

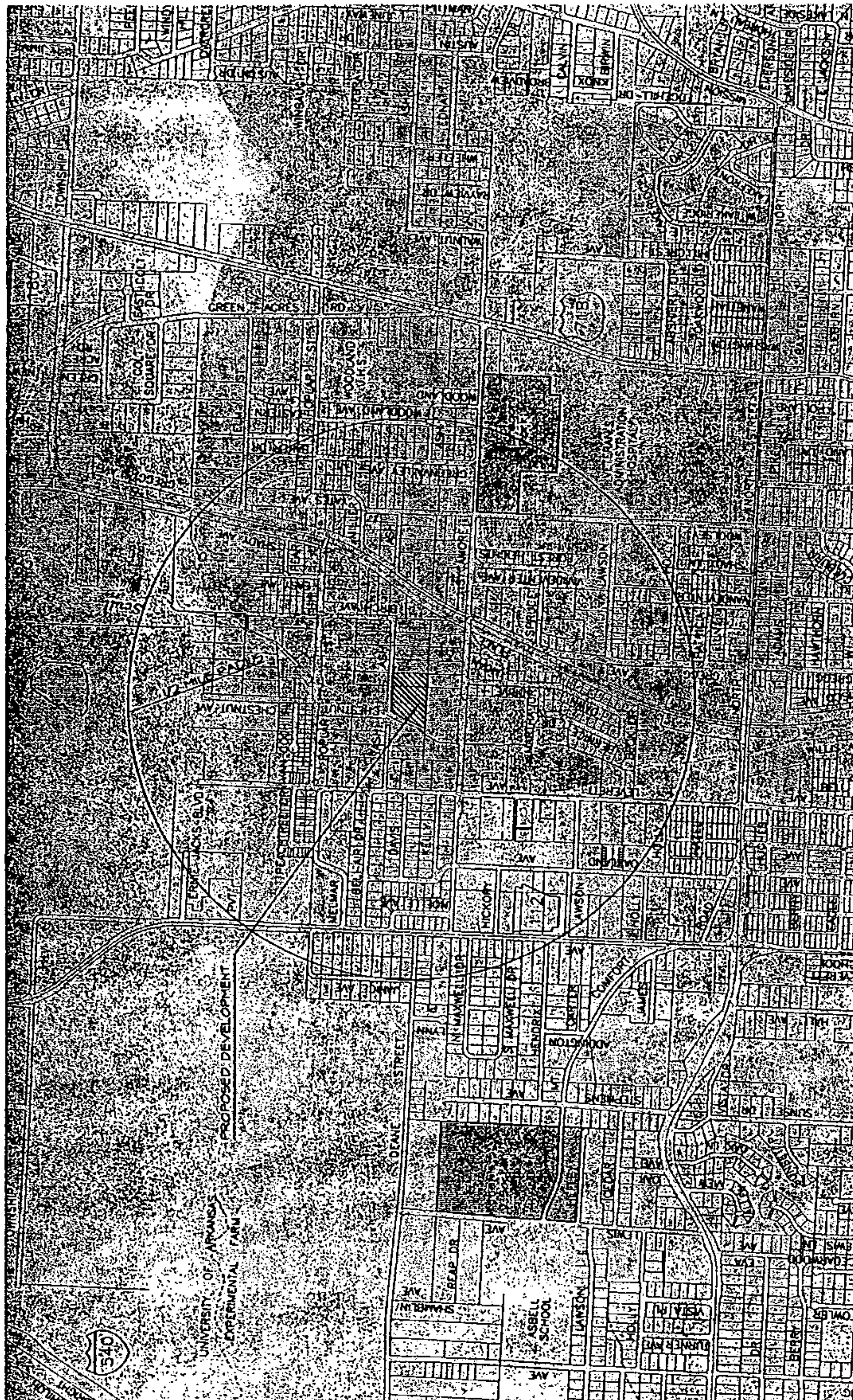
TO: Suzanne Morgan, Associate Planner
FROM: Matt Mihalevich, Park Planner
DATE: November 29, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: December 1, 2005
Item: PZD 05-1816 (Skate Place Apts., 366/367)
Park District: NW
Zoned: RPZD
Billing Name & Address: Hometown Properties

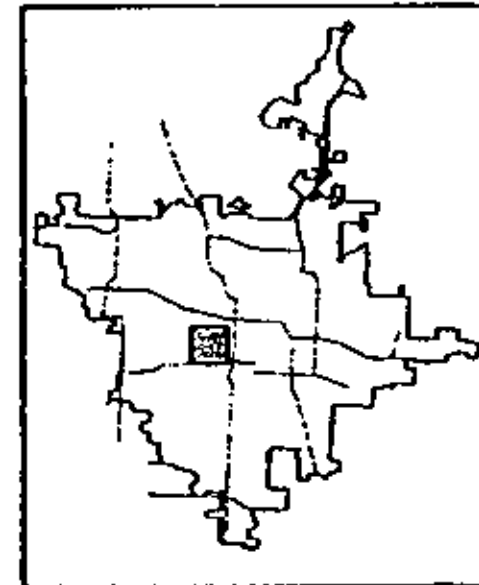
	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	<u>34</u> @ \$393 per unit = <u>\$13,362</u>
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$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.



PROXIMITY MAP
Skate Place Apartments
Homelonn Developments, Ltd.
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- Legend**
- Existing Park Land
 - Community Park Service Area
 - Neighborhood Park Service Area
 - Mini Park Service Area

Skate Place Apartments





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,

A handwritten signature in black ink, appearing to read "William Brown", is written over a horizontal line.

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

130 N. MAIN • CAVE SPRINGS, AR 72718
PHONE: 479-248-1161 • FAX: 479-248-1462

**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	

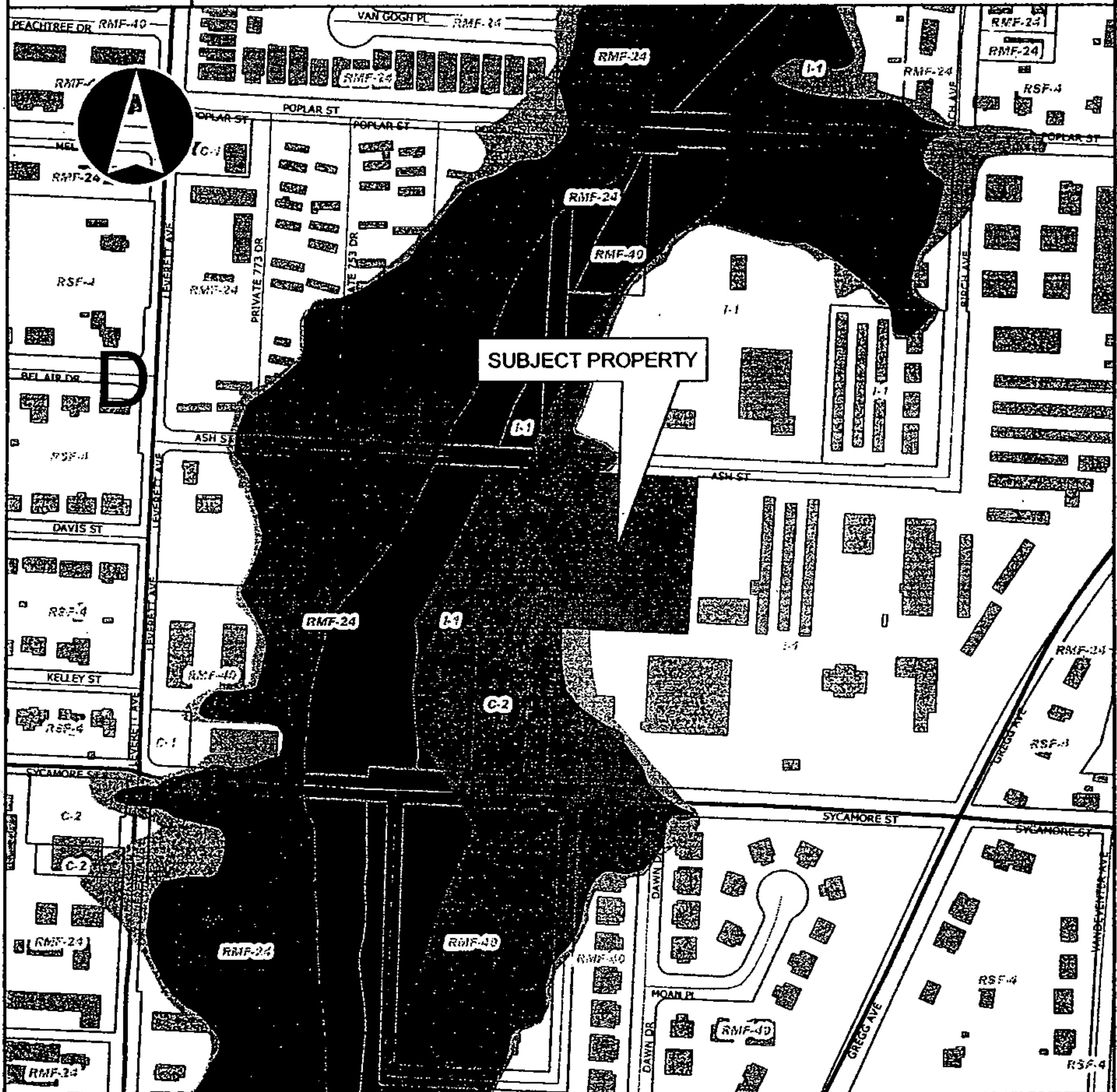
424 Black Locust	16	Fair	Remove vines
425 Black Locust	13	Good	
426 Boxelder	22	Poor	Decay
427 Silver Maple	14	Fair	
428 Sugar Maple	10	Fair	
429 Hackberry	11 DBL	Fair	Remove east trunk
430 Mulberry	20	Poor	

Prepared by Natural Resource Consultants
Patti Erwin
SO-1118

RPZD05-1816

SKATE PLACE APTS.

Close Up View



- Legend**
- Overlay District
 - FLOODWAY
 - 100 YEAR
 - 500 YEAR
 - LIMIT OF STUDY
 - BaseLine Profile
 - Fayetteville
 - Outside City
 - RPZD05-1816
 - vector.GDB.Footprint_2004

0 100 200 400 600 800 Feet

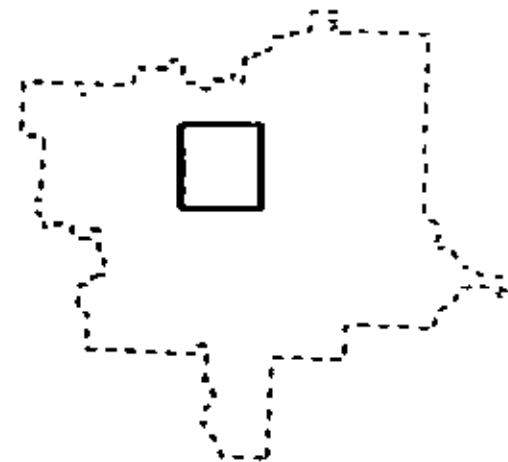
RPZD05-1816

SKATE PLACE APTS.

One Mile View



Overview



Legend

Subject Property

RPZD05-1816

Boundary

Planning Area

Overlay District

Outside City

Legend

0.0 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 ☐

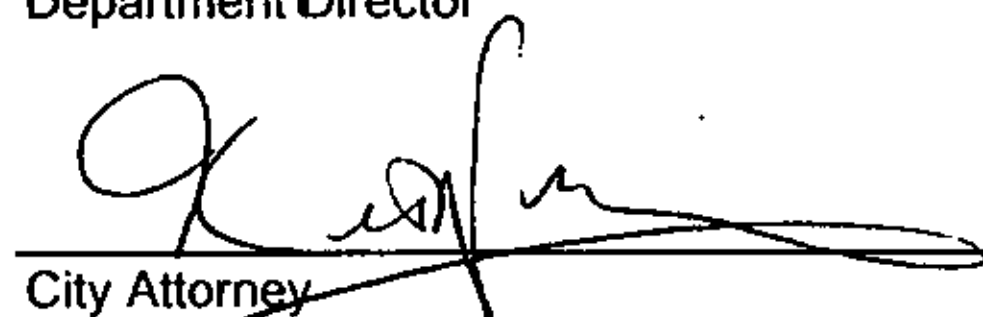

Department Director

12-16-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

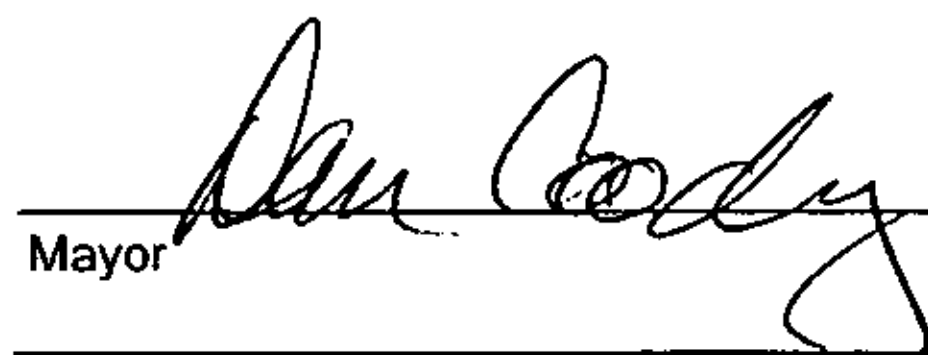

City Attorney

12-16-05


Finance and Internal Service Director

12-16-05
Date

Received in City Clerk's Office



Mayor

12/16/05
Date

Received in Mayor's Office


Comments:

Left on the second reading 1/3/06

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 and 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

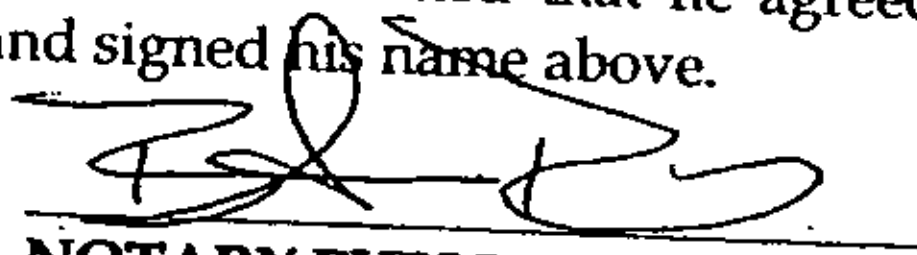
By:

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

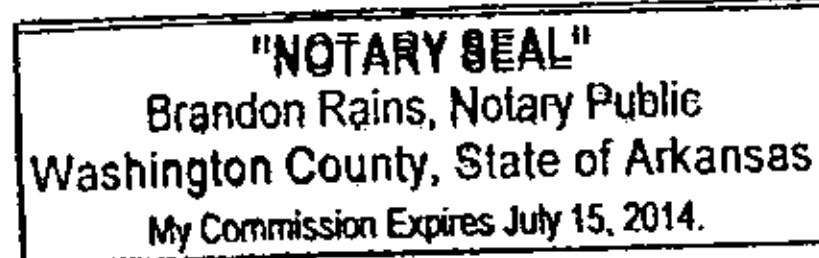


EXHIBIT "A"

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.

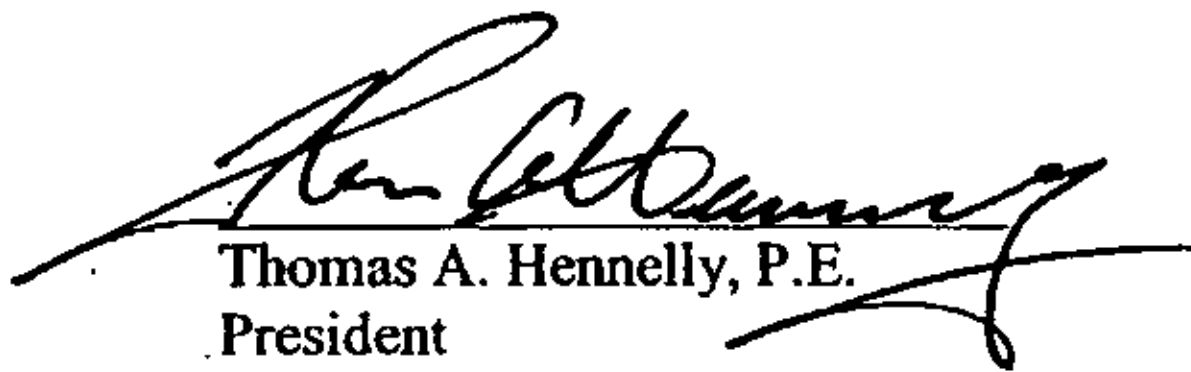
We are requesting the change in zoning to allow for less restrictive building heights. Under the current zoning, a maximum building height is 20 feet, with a provision for up to 75 feet, if the building setback is increased by 1 foot horizontally for every vertical foot over 20 feet. The planned development 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

Dear Staff:

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.

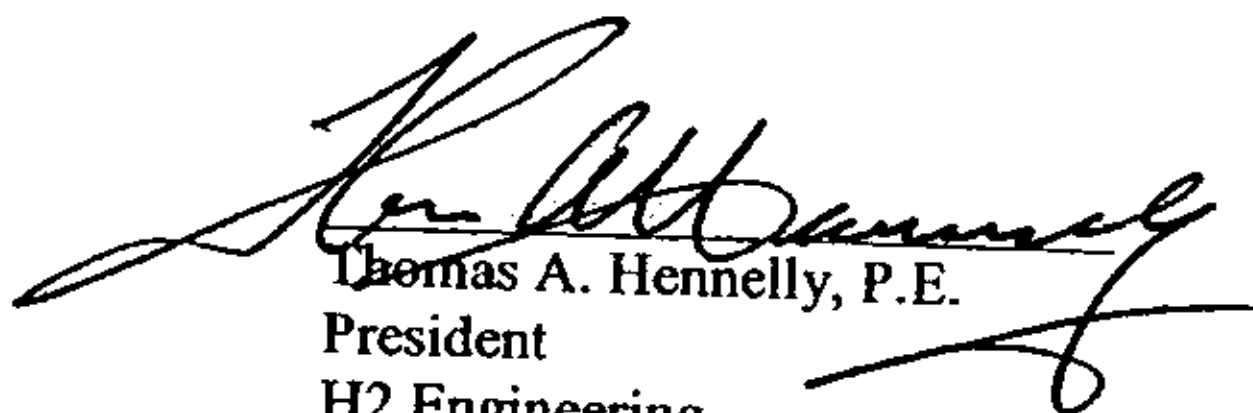
The entire property is currently zoned C-2. We are requesting a zoning of C-3. We are requesting the change in zoning to allow for less restrictive building heights. Under the current zoning, a maximum building height is 20 feet, with a provision for up to 75 feet, if the building setback is increased by 1 foot horizontally for every vertical foot over 20 feet. The planned development on this property is a mixed use including 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 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:

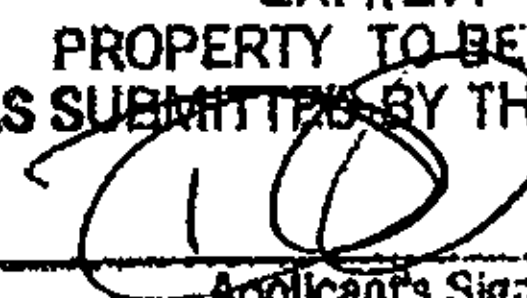
RZ1005 - 1833

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:

RZN05-1833

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

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.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

1st Submittal as:

RZN 05-1833

Parcel Closes

11/30/2005

TJ

05-045 Joyce Street, Barber Group

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.

1st Submittal as:

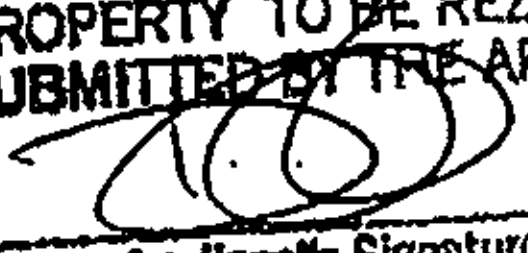
RZN 05-1833

Parcel Closes

11/30/2005

TJ

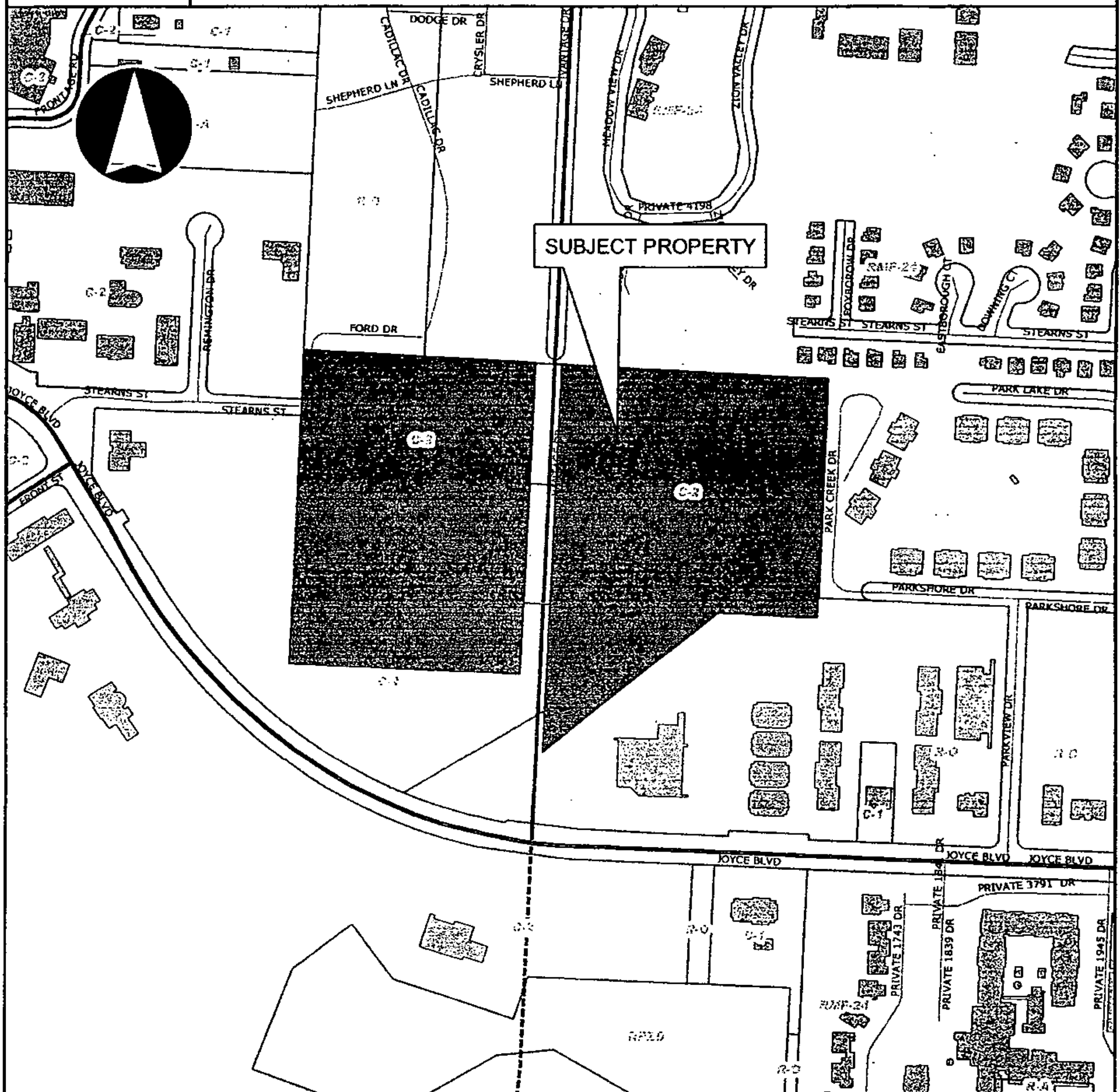
EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

RZN05-1833

Close Up View

BELLAFONT



Legend

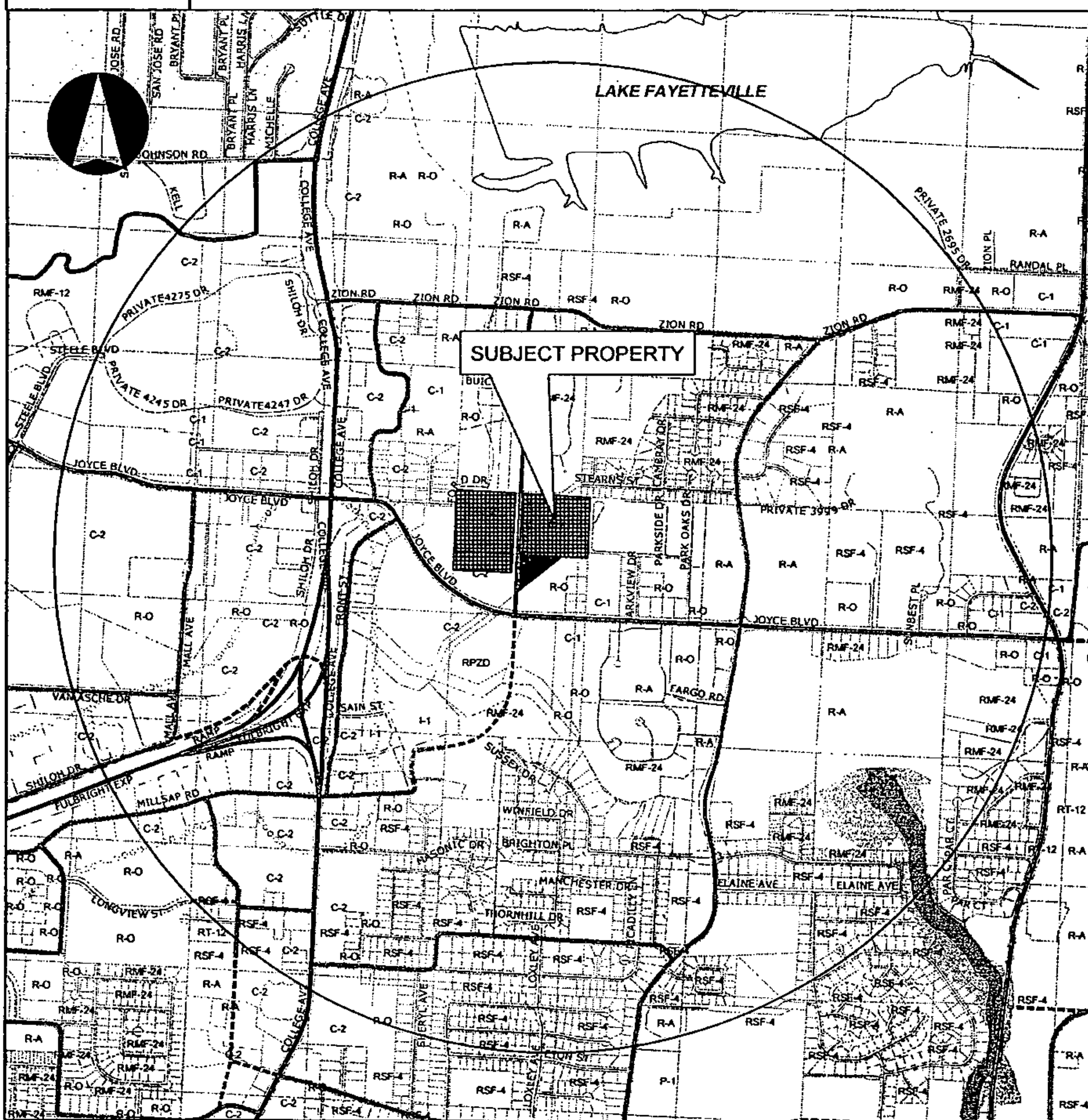
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RZN05-1833
- vector.GDB.Footprint_2004

0 150 300 600 900 1,200 Feet

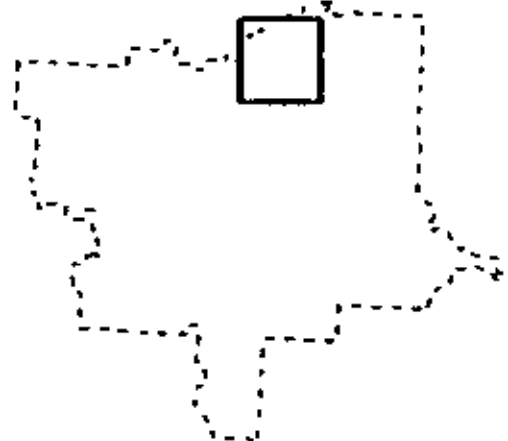
RZN05-1833

One Mile View

BELLAFONT



Overview



Legend

Subject Property
RZN05-1833

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

17-Jan-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-1887 (Hoggatt, 638-639): Submitted by Halley Hoggatt for property located at 1068 Cato Springs Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.31 acres. The request is to rezone the subject property to RMF-24, Residential Mult-family, 24 units per acre, in order to rebuild the burned 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 ☐

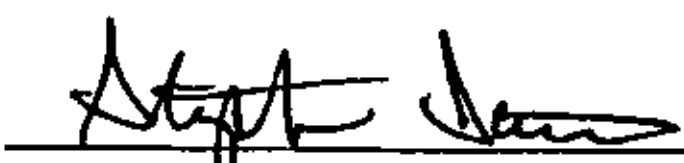

Department Director
12.29.05
Date

Previous Ordinance or Resolution # n/a

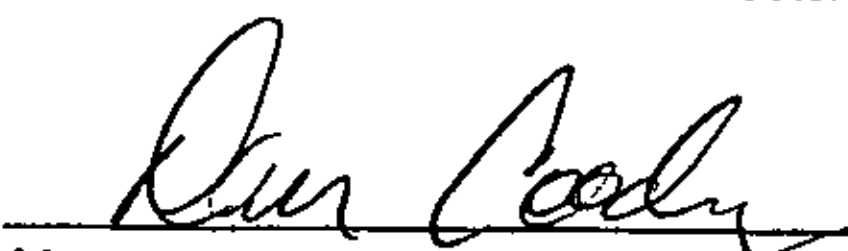
Original Contract Date: n/a


City Attorney
12-30-05
Date

Original Contract Number: n/a


Finance and Internal Service Director
12/30/05
Date

Received in City Clerk's Office
12-29-05
LP


Mayor
1/3/06
Date

Received in Mayor's Office
ENTERED
12/30/05
ptb

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 30, 2005

Subject: Rezoning for Hoggatt (RZN 05-1887)

RECOMMENDATION

Planning staff recommends approval of the proposed down-zoning from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24 units per acre, on approximately 0.31 acres located on Cato Springs Road.

BACKGROUND

The subject property contains 0.31 acres, owned by Northwest Property Management, LLC, Halley and Candace Hoggatt. There is no pending sale. Located at the northeast corner of Garland Avenue and Cato Springs Road, a two-family residential structure currently occupies the site, and recently suffered substantial damage due to a grease fire. The structure has served as a residence since 1960, prior to current zoning regulations. However, the existing I-1 zoning district does not allow for residential uses unless they are accessory in nature to a principal, permitted use on the property. Therefore, the use is considered nonconforming and cannot be permitted to be re-constructed without a change in the zoning district. Adjacent uses include residential development in all directions, within multiple zoning districts (RMF-24, RSF-4 and I-1). The applicant wishes to repair the one side of the two-family dwelling that was destroyed to continue the long-established residential use of the subject property.

Staff met with the applicant upon receipt of a building permit to repair the structure. Only 10% of normal repairs to a structure containing a nonconforming use is permitted. In order to allow for this established, 45-year use to continue, staff recommended the applicant pursue a request for a rezoning to a residential district that would allow for the established use to become conforming in a timely manner.

DISCUSSION

This item is scheduled to be heard at the regular Planning Commission meeting of January 09, 2006. Due to the Planning Commission having only one meeting in December, and the applicant attempting to provide a tenant with utilities as soon as possible, staff has requested this item be placed on the City Council agenda prior to a recommendation. The Planning Commission vote will be forwarded to the City Council prior to the City Council hearing.

BUDGET IMPACT None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 06-1887 FOR APPROXIMATELY
.31 ACRES LOCATED AT 1068 CATO SPRINGS ROAD FROM I-1,
HEAVY COMMERCIAL/LIGHT INDUSTRIAL TO RMF-24,
RESIDENTIAL MULTI-FAMILY, 24 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 I-1, Heavy Commercial/Light Industrial to RMF-24, Residential
Multi-Family, 24 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 _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-1887

A PART OF THE SW ¼ OF THE SW ¼ OF SECTION 21, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SW CORNER OF SAID 4-ACRES TRACT; THENCE NORTH 100.00 FEET; THENCE EAST 135.00 FEET; THENCE SOUTH 100.00 FEET; THENCE WEST 135.00 FEET TO THE POINT OF BEGINNING CONTAINING .31 ACRES, MORE OR LESS. SUBJECT TO EXISTING EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

DRAFT



PC Meeting of January 9, 2006

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
THRU: Jeremy Pate, Director of Current Planning
DATE: December 28, 2005

RZN 06-1887: Rezoning (Hoggatt, 638/639): Submitted by HALLEY AND CANDACE HOGGATT for property located at THE NORTHEAST CORNER OF CATO SPRINGS ROAD AND GARLAND AVENUE. The property is ZONED I-1, Heavy Commercial and Light Industrial, and contains approximately 0.31 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family, 24 units per acre, in order to rebuild the burned structure.

Property Owner: Northwest Property Management, LLC
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required	YES
	☐ Approved	☐ Denied
Date:	January 9, 2006	
CITY COUNCIL ACTION:	Required	YES
	☐ Approved	☐ Denied
Date:	January 17, 2006 (1st reading if recommended)	

BACKGROUND:

Property Description and Background: The subject property contains approximately 0.31-acres owned by Northwest Property Management, LLC. The property contains a two-family residential structure that recently suffered substantial damage due to a grease fire. The structure has served as a residence since 1960, prior to current zoning regulations. However, the existing I-1 zoning district does not allow for residential uses unless they are accessory in nature to a principal, permitted use on the property. Therefore, the use is considered nonconforming and cannot be permitted to be reconstructed without a change in the zoning district. As depicted in *Table 1*, adjacent uses include

residential development in all direction, within multiple zoning districts. The applicant wishes to repair the one side of the two-family dwelling that was destroyed to continue the long-established residential use of the subject property.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Multi- and Single- Family Residential	RSF-4, Res. Single Family – 4 units/acre
South	Single-Family Residential	I-1, Heavy Commercial and Light Industrial; RMF-24, Residential Multi-Family 24 Units/Acre
East	Single-Family Residential	RSF-4, Res. Single Family – 4 units/acre
West	Multi-Family Residential	RMF-24, Residential Multi-Family 24 Units/Acre

Proposal: The applicant intends to reconstruct the existing residential structure destroyed by a fire. Therefore, the applicant is requesting the property be rezoned from I-1, Heavy Commercial and Light Industrial, to RMF-24, Residential Multi-Family, 24 Units per Acre.

Recommendation: Staff recommends approval of the rezoning request to rezone the subject property RMF-24 based on findings herein.

INFRASTRUCTURE:

Streets: Currently the site has access to Cato Springs Road (a Minor Arterial) and Garland Avenue (a Collector).

Water and Sewer: Public water and sewer are provided to the site.

Fire and Police: At the time of publication of this staff report, the Fayetteville Police and Fire Departments had not provided formal responses to this rezoning request, although both of these services are currently provided to the property. The proposed rezoning would result in potentially less intense uses than the current I-1 zoning. The existing residential uses on the site would continue as indicated by the applicant.

LAND USE PLAN: General Plan 2020 designates this site **Mixed Use**. Rezoning this property to RMF-24 is consistent with the land use plan and compatible with surrounding land uses in the area.

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 RMF-24 zoning to maintain the long-established residential uses on the site is compatible with adjacent and nearby single and multi-family residential land use. The General Plan designates this area for mixed use, and

the property is directly adjacent to similarly zoned and developed property, which is compatible with the proposed RMF-24 zoning.

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 and needed immediately in order to rebuild the residential structure that was destroyed by a fire. Staff finds that this zoning is compatible with the General Plan 2020 and surrounding developments within the City.

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

Finding: The proposed zoning will not provide additional traffic on adjacent streets over the current zoning. The applicant has indicated that the existing residential uses would be retained on the site. This down-zoning from I-1 to RMF-24 would theoretically result in lower traffic impacts to infrastructure than would be allowed under the current I-1 zoning, however, the existing and future land use of the site is not anticipated to change with this rezoning, and impacts to traffic danger and congestion would remain unchanged.

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 increase population density. Under the I-1 zoning, residential uses are allowed as accessory uses, thereby limiting the amount of residential development on the site. The proposed RMF-24 zoning would increase the population density. However, the site has been under residential use and being provided public services since approximately 1960. Therefore the proposed zoning would not increase the load on public services including schools, water, and sewer.

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 Unified Development Code
Section 161.20 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(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 6	Agriculture
Unit 12	Offices, studios and related facilities
Unit 13	Eating places
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Professional offices
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 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 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-

Fayetteville Unified Development Code

Section 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.

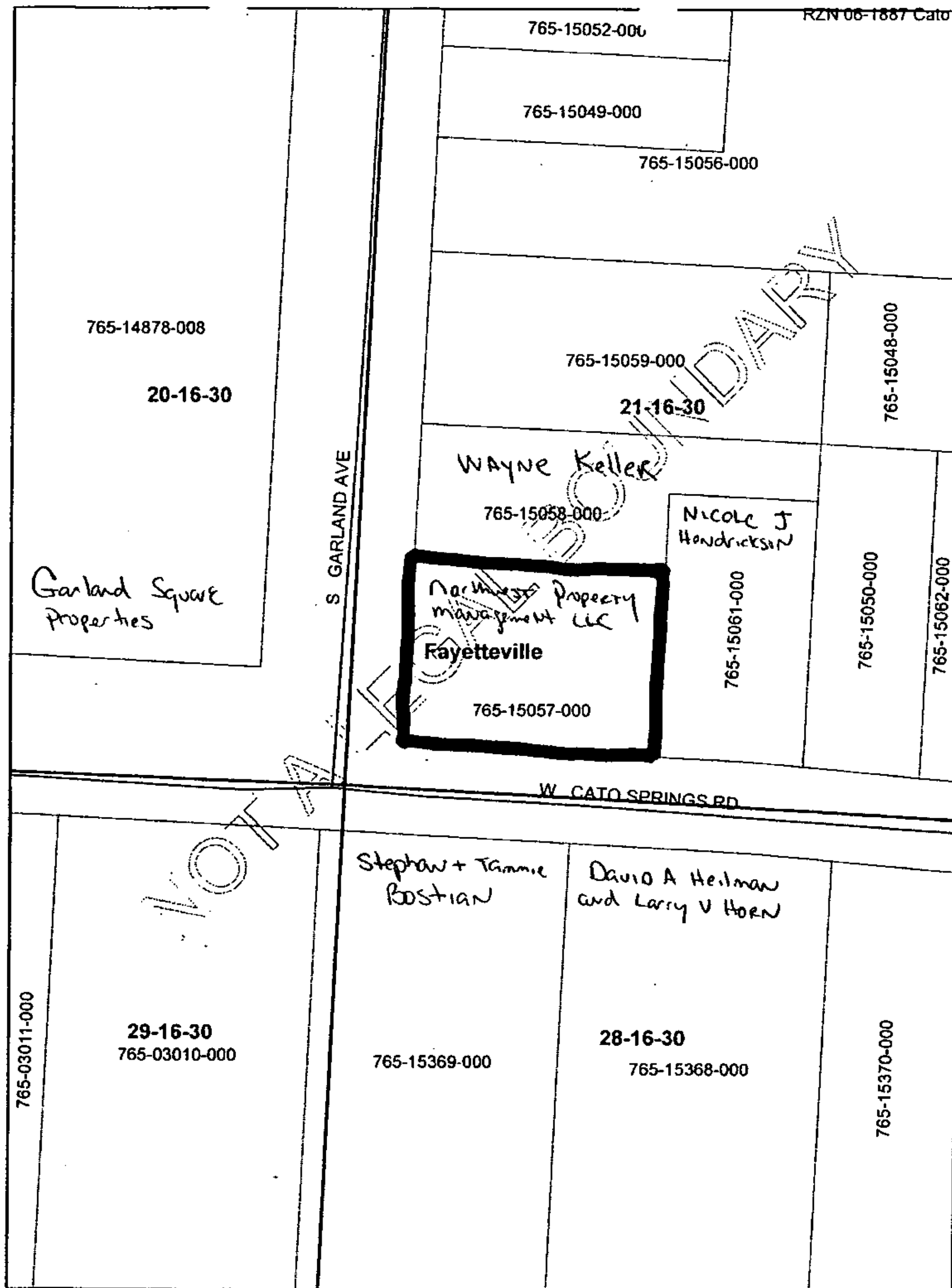
(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

Rezoning Application: 1068 Cato Springs Rd.

Description:

Current property owner is Northwest Property Management, LLC, Halley & Candace Hoggatt, Members. No proposed or pending sales. The request for the zoning change is to repair the interior of half of the structure due to fire damage. The property is currently zoned I-1 but has been a residence since 1960. We are requesting a change to ___ in order to support the existing structure. The subject property is surrounded on all sides by developed residential property. Since the residence already exists, no new negative impacts to the surrounding area will result. Water and Sewer already exist and are hooked up.

The subject is located in a well-established, predominantly single-family detached residential neighborhood. It is not quite clear how the property ever got zoned I-1 in the first place. The existing residence recently suffered a grease fire that destroyed the interior of one half. Repairs to this half require proper permitting and zoning. Again with the proposed use being the same use as the last 45 years, no change or alteration in traffic, density, utilities, or schools would be possible. How the property got zoned I-1 in the first place is a mystery to me. Surrounded by similar older residences, I cannot imagine Industrial zoning even fitting into these surroundings, and is impractical in its current zoning status.



0 50 100 200 Feet

County Disclaimer:

This map was created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (B), which states "The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre." and Arkansas Code 15-21-502 (6) which indicates that "Digital cadastre" means the storage and manipulation of computerized representations of parcel maps and linked databases."

This map has been developed from the best available sources. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall said Washington County be liable for direct, indirect, incidental, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use of or reliance on the map.

The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of this map. Distribution of this map is intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.



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

17-Jan-06

City Council Meeting Date

Jeremy Pate ^{AMG for JP}
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 06-1899 Administrative Item: (Gypsum Road Realignment): Submitted by Charlie Sloan for property recently annexed into the City of Fayetteville (Zaccanti) located east of Salem Road and Crystal Springs S/D, amending the Master Street Plan to realign Gypsum Drive and Raven Lane on the subject property.

\$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 ☐

 12-29-05
Department Director Date

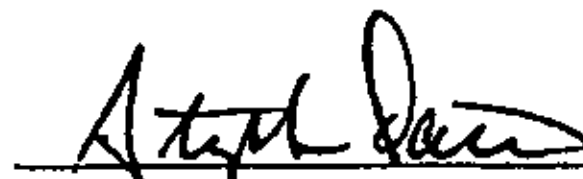
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

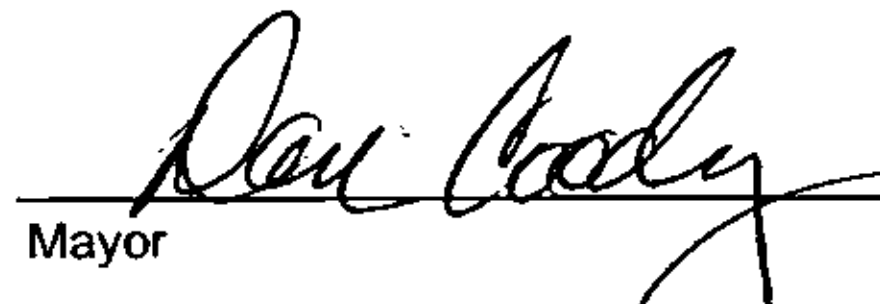
Original Contract Number: n/a

 12-30-05
City Attorney Date

Received in City Clerk's Office
ENTERED
12-29-05

 12/30/05
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED
12/30/05

 1/3/06
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Jeremy Pate, Director of Current Planning

Date: December 28, 2005

Subject: Approval of a resolution to amend the Master Street Plan to realign the Gypsum Road Collector status and Raven Lane Collector Street to the north (ADM 06-1899).

RECOMMENDATION

The Fayetteville Street Committee and staff recommend approval of a resolution amending the Master Street Plan to reclassify the collector status of Gypsum Road within Crystal Springs Ph. I to a Local Street, realigning the east-west collector street to the north through the undeveloped Rockhaven Subdivision, and adjusting the Raven Lane curve to the north.

BACKGROUND

The subject property is the site of the Crystal Springs S/D, Phase I, (a developed subdivision), Rockhaven Subdivision (an approved, but undeveloped subdivision) and the property recently annexed as the Zaccanti property, containing approximately 60 acres intended for development of single family residential dwelling units. The applicant requested the Street Committee to hear a Master Street Plan amendment for the subject property, in response to neighborhood concerns expressed at the annexation and zoning hearings. The Crystal Springs neighborhood currently has an adopted Collector Street (Gypsum Road) that traverses east-west through the property. The actual street and right-of-way was developed prior to the adoption of the current Master Street Plan, and exists on the ground as a Local Street. With future development to the east, the neighborhood has expressed concern regarding this Collector Street being located within an established neighborhood. A developer of ten acres to the north of this subdivision (Rockhaven) has agreed to allow for the Collector Street status to be applied to the east-west street in this subdivision, based on the City Council's decision regarding this matter. The request is to downgrade Gypsum Drive through Crystal Springs S/D to a Local Street, realign the Collector Street north through Rockhaven Subdivision, thereby creating the east-west connection. Additionally, an adjustment to the alignment of Raven Lane, north-south Collector, is requested. This request essentially makes the Gypsum Drive connection within Rockhaven feasible for all parties, and maintains the integrity of the north-south connection.

DISCUSSION

This item was heard at the Street Committee meeting of December 20, 2005, at which the four members voted to forward this item to the City Council with a recommendation of approval. The item is scheduled to be heard at the Planning Commission meeting of January 09, 2006.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION ADM 06-1899 AMENDING THE MASTER STREET PLAN, REALIGNING THE PLANNED COLLECTOR STREETS GYPSUM ROAD AND RAVEN LANE THAT CURRENTLY TRAVERSE THROUGH CRYSTAL SPRINGS SUBDIVISION PHASE I TO NORTH OF THE CURRENT ALIGNMENT WITHIN THE APPROVED ROCKHAVEN SUBDIVISION AS INDICATED IN THE ATTACHED MAPS.

WHEREAS, the existing alignment of the east-west collector street that currently is adopted as Gypsum Road through Crystal Springs Subdivision Phase I and Raven Lane, a north-south collector street in the same vicinity, are necessary collector streets accommodating traffic movement in the area; and

WHEREAS, the proposed alignment, in coordination with an adjacent developer, would create less disturbance to existing neighborhoods platted and developed prior to the adoption of the Master Street Plan in this area; and

WHEREAS, the realignment maintains the integrity and purpose of the Master Street Plan, providing the necessary east-west and north-south street connections;

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 herein above mentioned change.

Section 2. That the existing Gypsum Road within Crystal Springs Subdivision, Phase I, is reclassified as a Local Street on the Master Street Plan.

PASSED and APPROVED this _____ day of January, 2006.

APPROVED:

By: _____

DAN COODY, MAYOR

ATTEST:

By: _____

SONDRA SMITH, CITY CLERK



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

PPL 05-1740: Preliminary Plat (ROCKHAVEN, 245): Submitted by STEADFAST, INC. for property located at THE NORTH BOUNDARY OF CRYSTAL SPRINGS, PHSE I. The property is zoned RSF-4, Residential Single Family and contains approximately 10.00 acres. The request is to approve the preliminary plat of a residential subdivision with 31 single family lots proposed.

Property Owner: IRA ZAKARIADZE/OLIKA INVESTMENTS

Planner: SUZANNE MORGAN

Findings:

Property & Proposal: The subject property contains approximately 10 acres located east of Salem Road. The property is zoned RSF-4 and is located north of Crystal Springs, Phase 1. The applicant proposes to create a residential subdivision with 31 single family lots.

Background: The requested preliminary plat was reviewed at the Subdivision Committee meeting of November 17, 2005. Several surrounding property owners voiced concerns regarding the proposed development and density. The adjacent property owner/developer to the east, Mr. Charlie Sloan, was present and discussed the affect of the Master Street Plan on his and the subject property.

Surrounding Land Use and Zoning:

Direction from Site	Land Use	Zoning
North	Single Family Subdivision	Planning Area
South	Single Family Subdivision	RSF-4
East	Vacant	Planning Area
West	Single Family Residential	Planning Area

Water and Sewer System: Water and sewer shall be extended to serve the proposed development.

Adjacent Master Street Plan Streets:

East – Raven Lane (Collector) – not constructed

West – Salem Road (Collector) – existing
South – Gypsum Dr. (Collector) – constructed and dedicated at Local Street requirements
North – Howard Nickel Road (Principal Arterial)

Right-of-way to be dedicated: The Master Street Plan (MSP) calls for Raven Lane to be constructed through the eastern portion of the subject property. Staff requested that the applicant coordinate the street alignment with the owner to the east. The owner/developer to the east expressed his intent to process a Master Street Plan amendment to realign Raven Lane such that it jogs to the west further north of the subject property. It is also his intent to request the reclassification of Gypsum Drive from a Collector Street to a Local Street and shift the Collector street to the north, through Rockhaven Subdivision. The applicant has stated that should a Master Street Plan amendment be accepted by the City Council, he would alter the proposed plat accordingly. As such, the applicant submitted two plats for review and approval by the Planning Commission.

Street Improvements: Staff recommends the widening of Salem Road to 14' from centerline with a 6' sidewalk at the right-of-way line with all other improvements to comply with Master Street Plan requirements.

Connectivity: The applicant has indicated street connections to Salem Road and a stub-out of Raven Lane to the north and south.

Parks:

- PRAB recommended accepting money in lieu of land for 35 single family units on April 4, 2005 due to its proximity to the future Salem Meadows Park.
- Since that time, the number of units has decreased to 31 single family, therefore, fees are due in the amount of \$17,205 prior to signing final plat.

<i>Tree Preservation:</i>	Existing:	3.42%
	Preserved:	3.42%
	Required:	3.42%
	Mitigation:	Required

Recommendation: Staff recommends approval of PPL 05-1740 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of appropriate connectivity and compliance with the Master Street Plan. *Unless otherwise approved by the City Council, the applicant shall comply with the requirements set forth by the Master Street Plan for the alignment of Raven Lane. The alignment of the proposed street and Raven Lane shall be revised to create a "T" intersection, which will provide greater traffic safety than the proposed "Y" intersection, and Raven Lane shall be constructed to the north and south property lines with center turn lanes north and south of the proposed intersection, as indicated generally in the attached plats.*

Should the City Council approve a Master Street Plan amendment to realign Raven Lane and/or designate an east-west Collector street through the subject property, the

alternative preliminary plat submitted by the applicant shall be submitted for construction approval with the following requirements: (1) The right-of-way for the proposed east-west street shall meet the requirements of the Master Street Plan which may require the proposed street to be widened to 70' right-of-way, and (2) the applicant shall submit money in lieu of 120' street construction (temporary cul-de-sac) at the time of final plat if construction has not commenced on the property to the east.

The Subdivision Committee recommended in favor of the street improvements listed above.

2. Planning Commission determination of street improvements. *Staff recommends the widening of Salem Road to 14' from centerline and construction of a 6' sidewalk at the Master Street Plan right-of-way. All interior streets shall be constructed in accordance with the Master Street Plan.*

The Subdivision Committee recommended in favor of the street improvements listed above.

3. Sidewalks along Salem Road and the detention lot (#16) shall be constructed (not guaranteed) prior to recordation of the final plat.
4. The lot reserved for detention shall be an unbuildable lot and owned and maintained by the P.O.A.
5. No lots shall access Salem Road or the proposed Raven Lane if an interior street may be accessed.
6. Street lights along Salem Road and all interior streets shall be installed or guaranteed prior to recordation of the final plat with a maximum spacing of 300'.
7. Signs indicating the future extension of right-of-way shall be posted at the end of all street stub-outs prior to filing the final plat.
8. Payment of \$17,205 for 31 additional single family units in lieu of dedication of parkland shall be contributed by the developer prior to final plat.
9. The applicant shall comply with the attached comments from the Landscape Administer regarding the Tree Preservation Plan, which comments shall be considered official conditions of this preliminary plat.
10. Sophia is not an acceptable street name. Names of persons may not be used for street names. All street names and addresses shall be approved by the 911 coordinator.
11. The applicant shall address the following items not resolved from Technical Plat Review:
 - a. Proof of sale of the property from GN Development, LLC to Olika Investments has been submitted. Please provide verification of authorization for Ira Zakariadze to sign as an officer or in behalf of Olika Investments.
 - b. The applicant shall update the property's parcel number to 765-16658-300.

Standard Conditions of Approval:

12. 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).
13. 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.
14. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
15. Preliminary Plat approval shall be valid for one calendar year.

Additional conditions:

- a. _____
- b. _____

Planning Commission Action:

☒ Approval

☐ Tabled

Meeting Date: November 28, 2005

Comments:

(Note: Both versions were approved. The applicant (~~will~~) will be compliant with the MSP.)

Clark/Allen 9-0-0

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 _____



PC Meeting of November 28 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: November 21, 2005

ITEM #: PPL 05-1740: Preliminary Plat (Rockhaven)

Requirements Submitted:

	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	10
square feet	435,600
Existing Tree Canopy	
acres	0.34
square feet	14,879
percent of site area	3.42%
Existing Tree Canopy Preserved	
acres	0.34
square feet	14,879
percent of total site area	3.42%
Percent Minimum Canopy Required	3.42%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site has 10 significant trees located on site all but one is proposed for preservation.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Most if not all trees will remain on the 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.

- **Adjacent property owners should not be affected by the removal of these trees. If Raven Lane extends the tree found along the property line may be compromised by compaction and disturbance in its root zone. The adjacent property owner here would be adversely affected.**

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.

- **The size or shape does not reduce the flexibility of this design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees are good to fair.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **The utilities have been routed around the existing trees for maximum preservation.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **One tree will be removed for the construction of Raven Lane if chosen by the Planning Commission. If not, all trees will be preserved.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **Topography is little to no issue on this site.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **No mitigation will be required unless the road is required to extend to the property line.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **N/A**

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 for Approval:

1. **Both plans as proposed by Steadfast Inc. would preserve all trees found on the site. The tree in question along the extension of Raven Lane is actually found across the property line on Mr. Spicer's property. Extending Raven Lane to the property line would compromise a good portion of this trees critical root zone. Being of the elm species there is a high chance of survival for this tree until further extension of the Lane. For the best interest of the tree giving the root system an additional 10 feet on the south side would increase the chance of survival even more.**
2. **If the option to extend the road to the property line is chosen, Steadfast will not be able to count the canopy found on their property line as preserved since it will be found in the right of way. This will decrease their preservation numbers by 353.25 square feet (approximately half of canopy found over property line) and require mitigation.**
3. **If the option to omit the construction of Raven Lane altogether is chosen all trees on-site will remain during this project and therefore no mitigation will be required.**

PLAT REVIEW CHECKLIST

Subject Rockhaven Subdivision

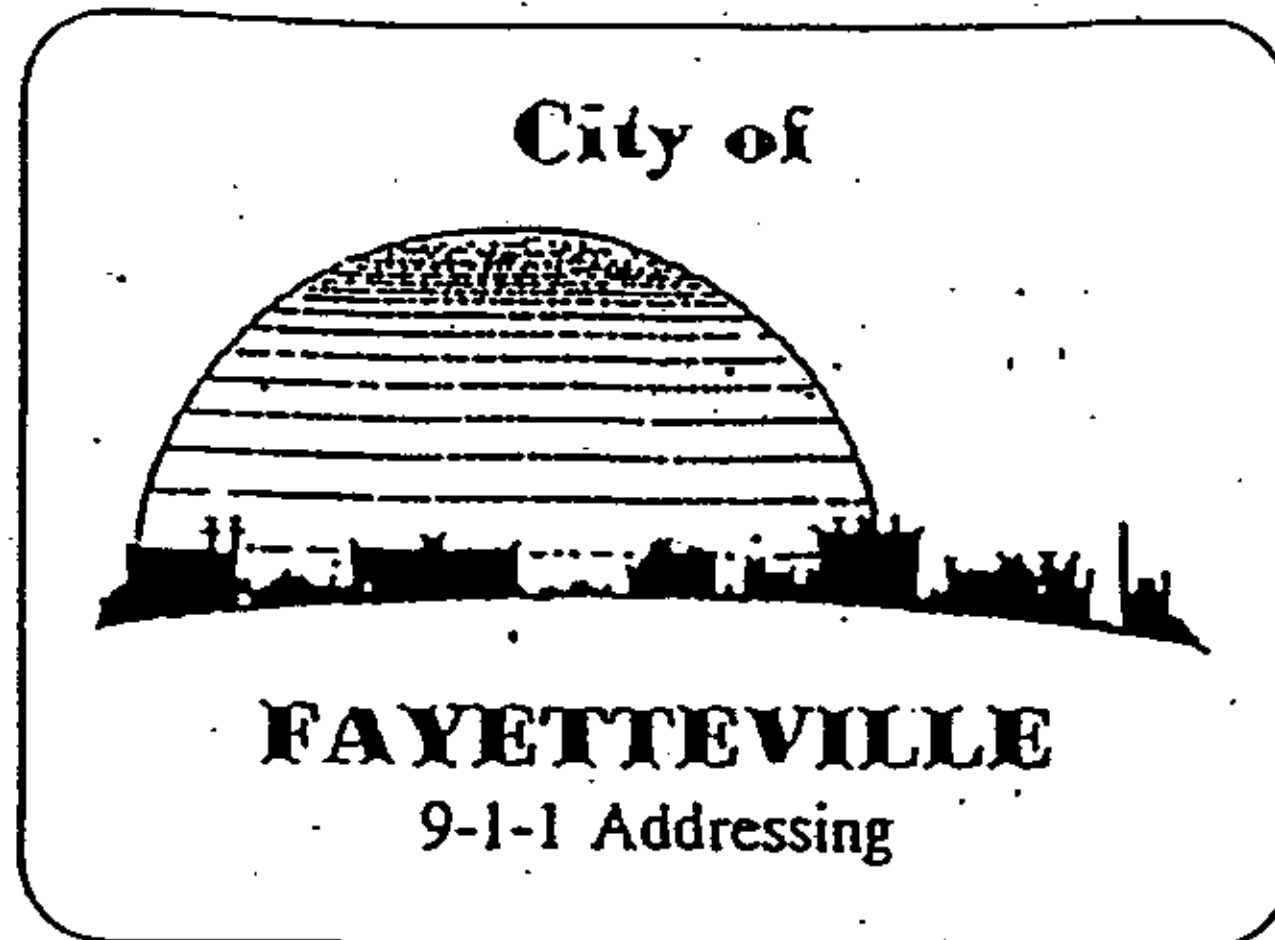
DATE: 10-17-05



Fire



Police



Ambulance

113 W. Mountain Street, Room 034A
Fayetteville, AR 72702

Telephone No: Jim Johnson (479) 575-8380

Fax No: (479) 575-8316

NOTES:

The Street Name Sophia
cannot be used

Please select another name
Names of persons can not be
used

Thanks

FROM

BY: 

**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 15, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: November 17, 2005
Item: PPL 05-1740 (Rockhaven, 245)
Park District: NW
Zoned: RSF-4
Billing Name & Address: GN Development, LLC

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	31 @ \$555 per unit = \$17,205
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 recommended accepting money in lieu of land for 35 single family units on April 4, 2005 due to its proximity to the future Salem Meadows Park.
- Since that time, the number of units has decreased to 31 single family, therefore, fees are due in the amount of \$17,205 prior to signing final plat.

City of Fayetteville
Planning Office
Fayetteville, AR 72701

RE: Preliminary Plat for Rockhaven Subdivision

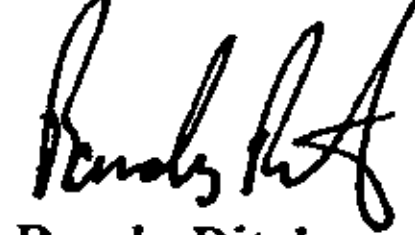
9/15/05

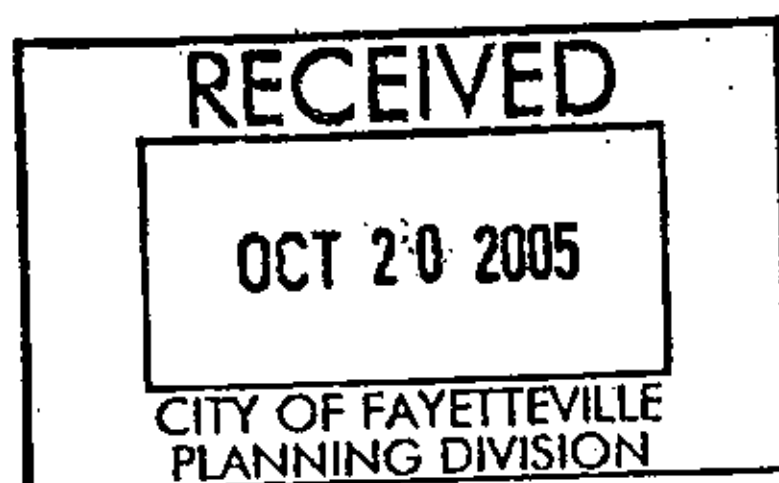
Greetings,

Please accept this preliminary plat submittal for Rockhaven subdivision. The property consists of 10.0 acres that front Salem Road in Washington County. The property lies within the City of Fayetteville. The subdivision includes 32 lots with one lot dedicated for use as a detention pond. There will be a temporary cul-de-sac, which will be removed at such time as Raven lane is extended per the master street plan. The proposed street conforms to the local street requirements. The subdivision contains 31 single family lots. No existing trees will be removed as part of this development.

Thank you for the opportunity to be of service. If you have any questions about this proposal, please feel free to call me at 479-527-9166.

Have a blessed day!


Randy Ritchey, P.E.



"And the rain descended, and the floods came, and the winds blew and beat upon that house; and it fell not: for it was founded on a Rock." Matthew 7:24



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

November 16, 2005

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

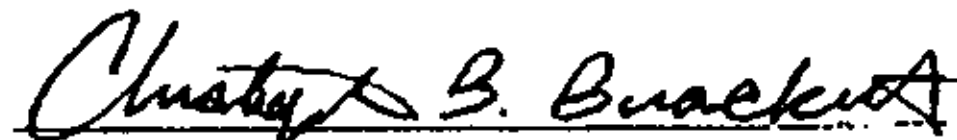
Attn: Planning Department
Re: Zaccanti Property (East of Crystal Springs Subdivision)

On behalf of the developer of the above mentioned project, Charlie Sloan, I am writing this letter to confirm that we will be asking for an amendment to the Master Street Plan east of Salem Road. This request will include moving the collector that is currently shown along Gypsum Street to the north. This would put the collector along the new street in the Rockhaven Subdivision that is currently in the planning process at the City.

Please call concerning any questions you may have.

Thank you.

Sincerely;


Christopher B. Brackett, P.E.

Nov 14 05 05:40p

ADM 06-1899 P. 1 C. 2
Gypsum Road
Page 17 of 20

John Eric and Cindy Brewer
3231 Kendall Dr. WC 2039
Fayetteville, AR 72704

November 14, 2005

Attention Planning Committee
Subject: PPL 05-1740 Rockhaven
Subcommittee Meeting Thursday November 17th 8:30am

As property owners of 2 acres that is out of Fayetteville City limits that borders the subject property "Rockhaven", we request that the planning committee take in consideration to conserve the nature of the established community to the North of "Rockhaven" in effort to minimize the decrease in value, visual impact, and enviroment issues of the effected homes. Please address the the following on or before Thursday November 17, 2005 subcommittee committee.

100 feet "Green Space" North property boarder of Rockhaven (Property North is out of city limits and to prevent unnatural erosion due to the elevated slope of our property and others adjoining to the East and West)

Wildlife currently using pond for water source. (What will happen to water source/flow and wildlife when pond is removed?)

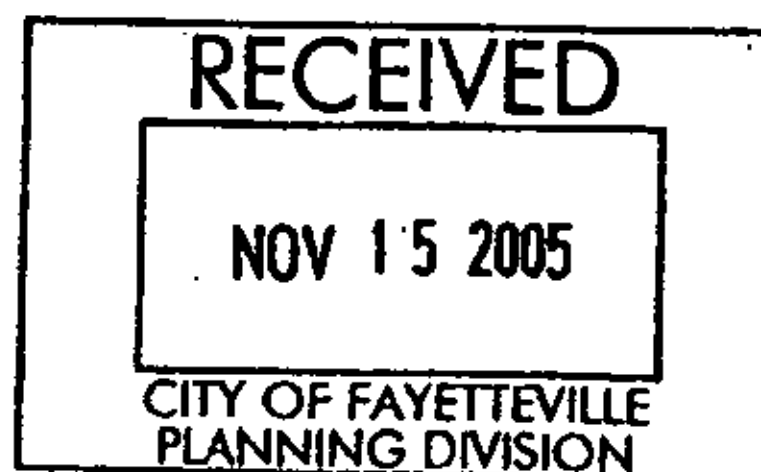
Kendall Drive to remain a Dead End Street

2 Acre lots instead of 80X140 (Minimize impact of development)

Thank you for your time and detail to this sensitive issue.

The Brewers

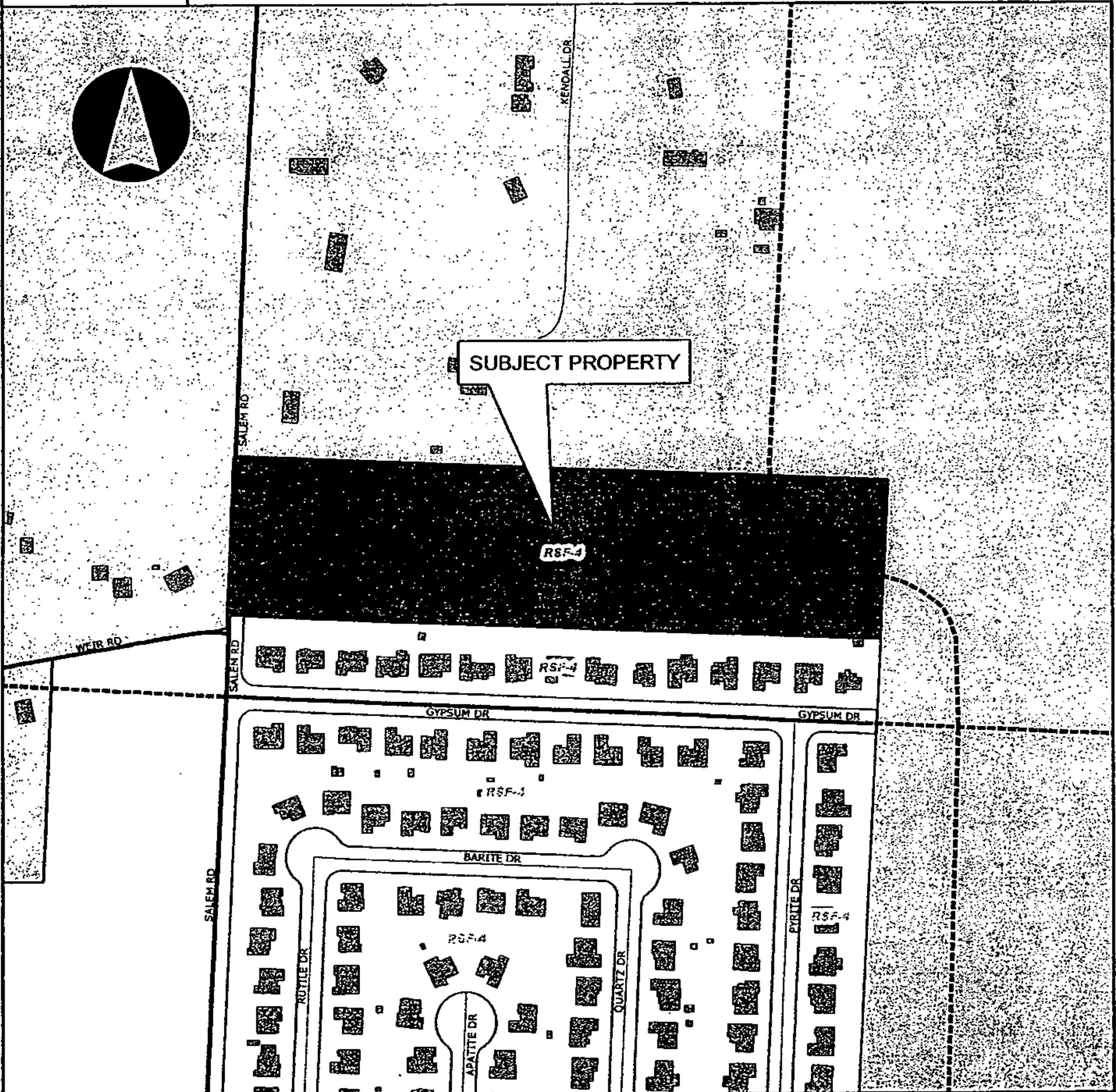
Cindy Brewer
John Brewer



PPL05-1740

Close Up View

ROCKHAVEN



Legend

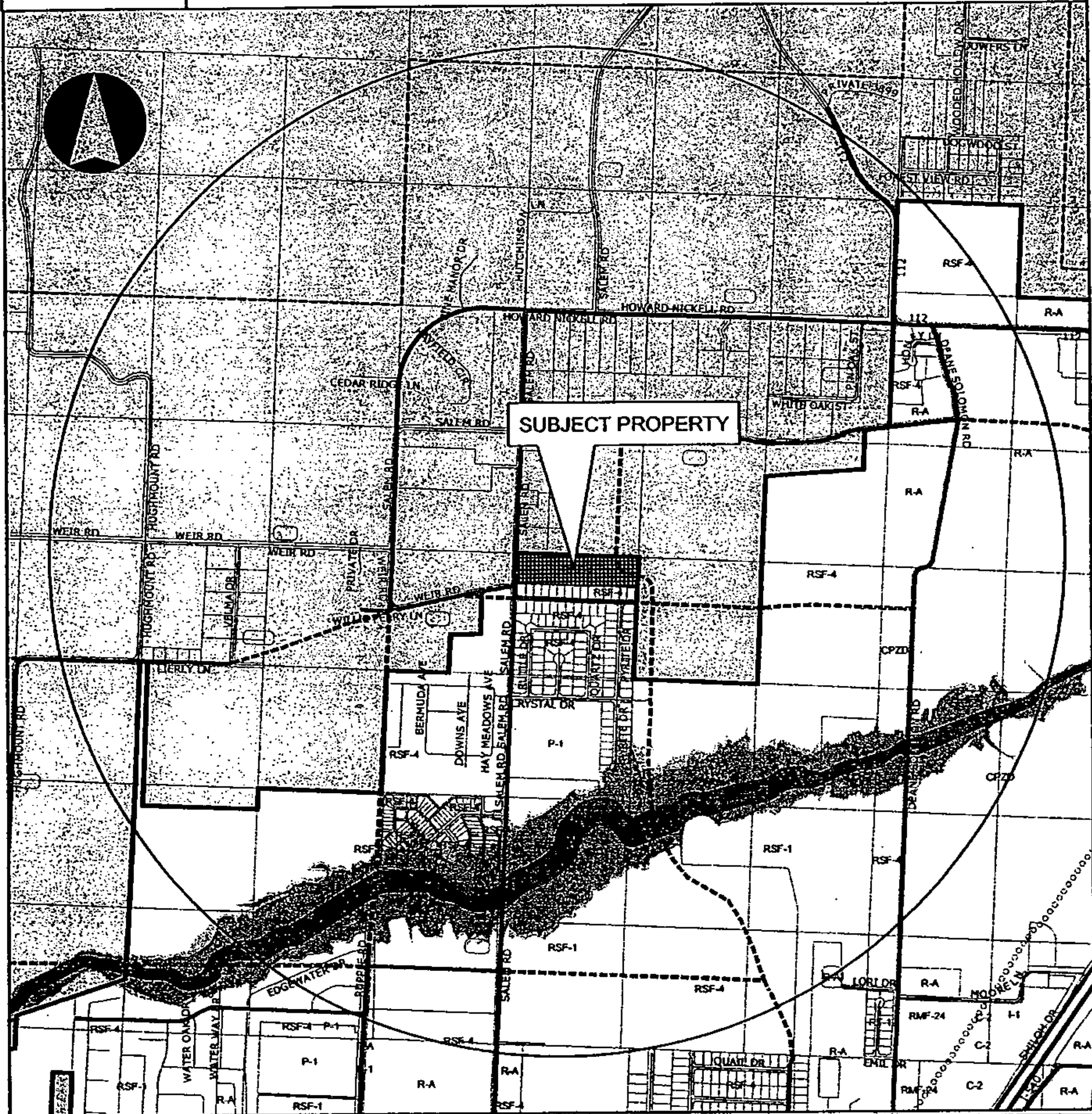
- ooooo Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- PPL05-1740
- vector.GDB.Footprint_2004

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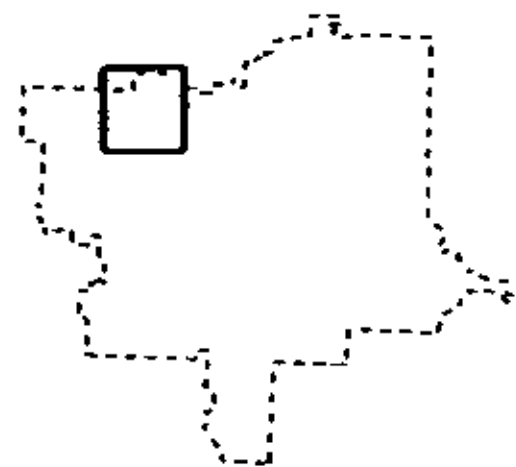
PPL05-1740

ROCKHAVEN

One Mile View



Overview



Legend

Subject Property

PPL05-1740

Boundary

Planning Area

Overlay District

Outside City

Legend

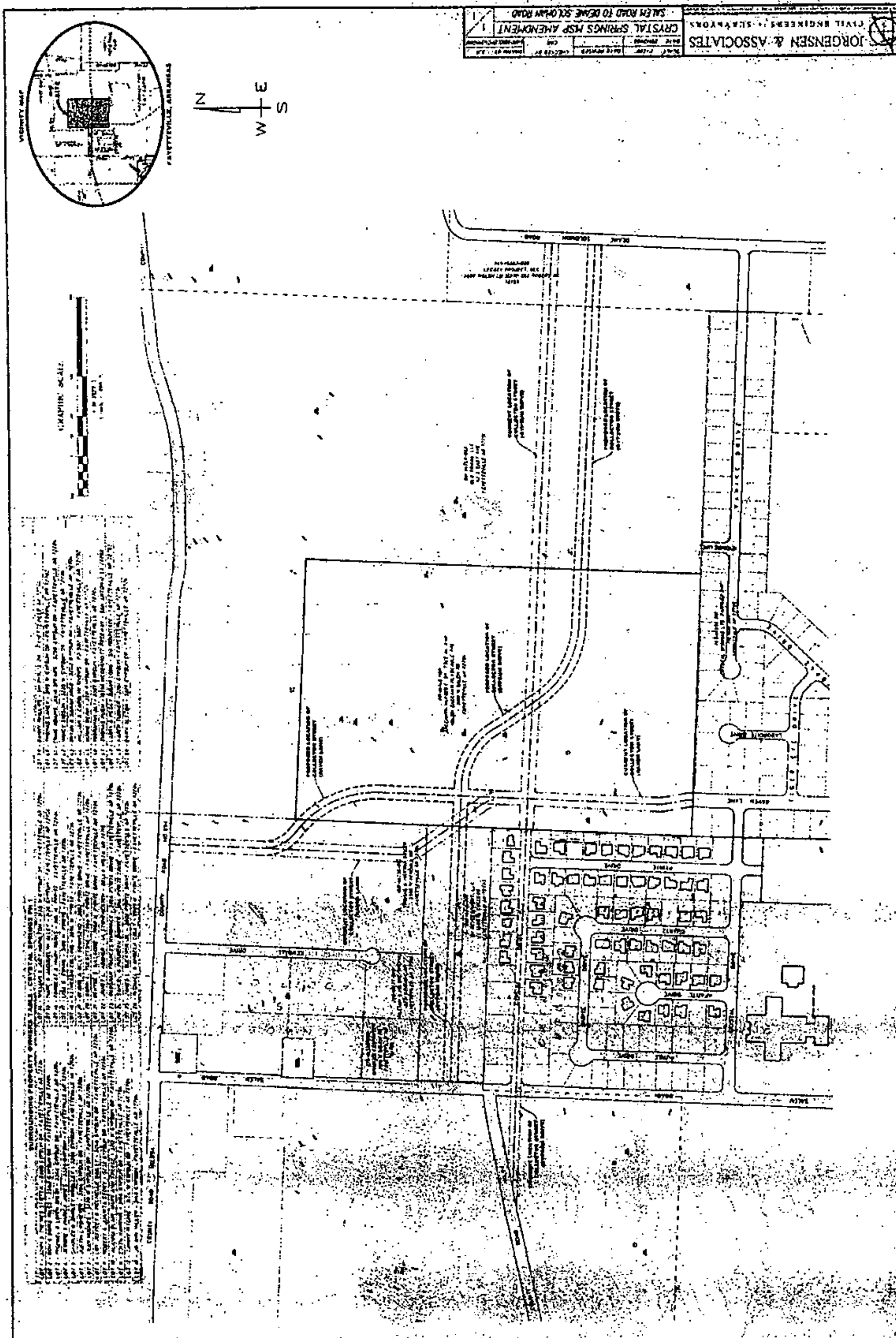
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Miles



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

17-Jan-06
City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

Approval of extension of contract with Dychem International to provide automatic drive through wash equipment in 2006.

\$60,000.00

Cost of this request

\$

261,000.00

Category/Project Budget

Contract Services

Program Category / Project Name

9700.1910.5315.00

Account Number

\$

-

Funds Used to Date

Services and Charges

Program / Project Category Name

\$

261,000.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

X

Budget Adjustment Attached

Previous Ordinance or Resolution # 4566, 4674

Original Contract Date: 5/15/1998

Original Contract Number: Res.68-98

Department Director

Date

City Attorney

Date

Mayor

Date

Received in City Clerk's Office

ENTERED

12-30-05

Received in Mayor's Office

ENTERED

12/30/05

Comments:



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

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: Barbara Olsen, Fleet Office Manager *B O.*
Date: December 29, 2005
Subject: Extension of Drive through Equipment Wash Contract

RECOMMENDATION: That City Council approve a one year extension of an existing contract with DyChem International for drive through equipment wash supplies and equipment for 2006.

BACKGROUND: By Resolution 68-98, City Council entered into a contract with DyChem International to furnish a drive through wash bay in the Fleet building and for exclusive purchase of chemical supplies for the operation of the wash equipment. The contract ended December 31, 2003. Fleet staff began a search for alternative equipment and contractors in August, 2003. A trial period with an on site mobile washing contractor during January and February 2004 was not successful. By Ordinance #4566, City Council extended the contract until December 31, 2004.

During 2004, Fleet Staff researched washing alternatives and sent out a request for proposal. Proposals were received August 16, 2004. Fleet staff visited two facilities with the types of vehicle washing equipment that is under consideration. The Equipment Committee requested further information on costs of the systems at the meeting in November, 2004. By Ordinance #4674 City Council extended the contract until December 31, 2005.

After further research in 2005, it was concluded that purchase rather than lease of drive through wash equipment was more cost effective for the City. Capital funds to purchase a vehicle wash system were requested and approved for the 2006 budget. **Bid requests have not yet been sent out.**

In order to keep the existing system operating until a new wash system is bid and purchased, it is recommended that the City extend the existing contract with all of its terms and conditions for a period of one year, ending December 31, 2006. Contract terms allow for termination upon 60 days written notice, allowing an earlier transition to a new system. DyChem has agreed to the proposed extension.

Funds are available in the operating budget for ongoing washing of equipment under this contract.

ORDINANCE NO. _____

**AN ORDINANCE TO WAIVE COMPETITIVE BIDDING
AND AWARD AN EXTENSION OF A CONTRACT WITH
DYCHEM INTERNATIONAL THROUGH THE END OF 2006.**

WHEREAS, Dychem International was selected by competitive bidding in 1998, and awarded a contract renewable through December 31, 2003, for automatic drive-through wash equipment; and,

WHEREAS, the City Council, by Ordinance No. 4566, waived competitive bidding and extended the contract through the end of 2004, and by Ordinance No. 4674 through the end of 2005; and,

WHEREAS, city staff has concluded that purchase of the equipment will be more cost-effective than leasing; and

WHEREAS, to avoid an interruption in service while the new system is bid out, it is in the best interest of the City to extend the current contract with Dychem International through December 31, 2006.

**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 an exceptional situation exists in which competitive bidding is not deemed feasible or practical, and therefore, the City Council hereby waives the requirements for competitive bidding and awards a one year extension of the current Hydro Shock Elect Washing System Lease and Chemical Purchase Agreement entered into on June 2, 1998 so that this contract will be in effect until December 31, 2006.

PASSED and APPROVED this the 17th day of January, 2006.

APPROVED:

DAN COODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

DRAFT

ORDINANCE NO. 4674

**AN ORDINANCE TO WAIVE COMPETITIVE BIDDING
AND AWARD AN EXTENSION OF A CONTRACT WITH
DYCHEM INTERNATIONAL THROUGH THE END OF 2005**

WHEREAS, Dychem International was selected by competitive bidding in 1998 and awarded a contract renewable through December 31, 2003 for automatic drive through wash equipment; and

WHEREAS, the City Council, by Ordinance No. 4566, waived competitive bidding and extend the contract through the end of 2004; and,

WHEREAS, city staff have continued to examine other options but have not yet found a successful alternative; and

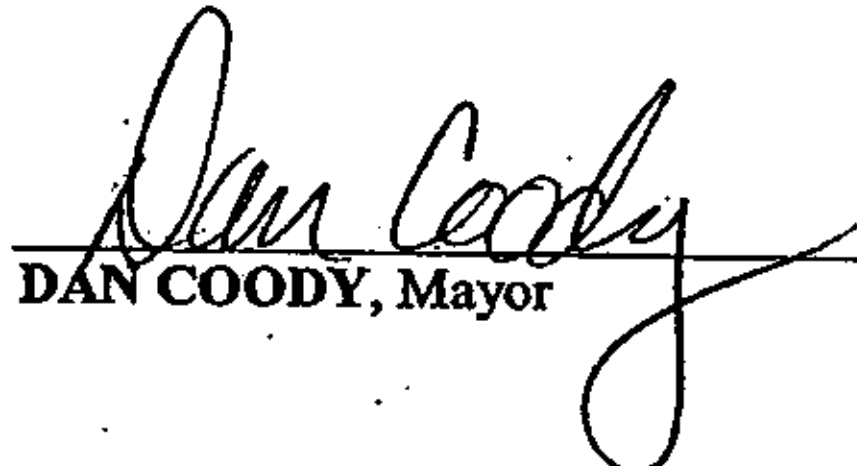
WHEREAS, it would be in the best financial interest of the City to extend the current contract with Dychem International through December 31, 2005 rather than competitively bid this contract now.

**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 determines that an exceptional situation exists in which competitive bidding is not deemed feasible or practical and the City Council hereby waives the requirements for competitive bidding and awards a one year extension of the current Hydro Shock Fleet Washing System Lease and Chemical Purchase Agreement entered into on June 2, 1998 so that this contract will be in effect until December 31, 2005.

PASSED and APPROVED this the 1st day of February 2005.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:



By: 
SONDRA SMITH, City Clerk

**CONTRACT EXTENSION FOR HYDRO SHOCK FLEET WASHING
SYSTEM LEASE AND CHEMICAL PURCHASE AGREEMENT**

THIS LEASE/PURCHASE AGREEMENT EXTENSION is made and entered into this 7th day of February, 2005 by and between Dychem International, Inc. ("Lessor") and the City of Fayetteville ("Lessee").

Both parties agree to all the terms and conditions specified in the original agreement dated June 2, 1998.

Both parties agree that the agreement shall be extended from January 1, 2005 to December 31, 2005.

Fayetteville City Council has passed and approved Ordinance No. 4674 allowing the waiver of competitive bidding and awarding an extension of the contract.

DyChem International Inc., Lessor

By: *Mike Dunlap*

Title: Mike Dunlap, Vice President

Date: 2-7-05

Attest:

By: *Jana Opoulos*

Title: Jana Opoulos, Customer Svc.

Date: 2-7-05

City of Fayetteville, Lessee

By: *Dan Coody*

Dan Coody, Mayor

Date: 2/17/05

Attest:

By: *Sondra Smith*

Sondra Smith, City Clerk

Date: 2/17/05



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

17-Jan-06
City Council Meeting Date

Tim Conklin
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

Approval of a contract and bid waiver ordinance for Fayetteville Downtown Partners in the amount of \$90,000 to provide services to the City of Fayetteville with regard to implementing the Downtown Master Plan.

\$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 ☐

Previous Ordinance or Resolution # n/a


Department Director

12-30-05
Date

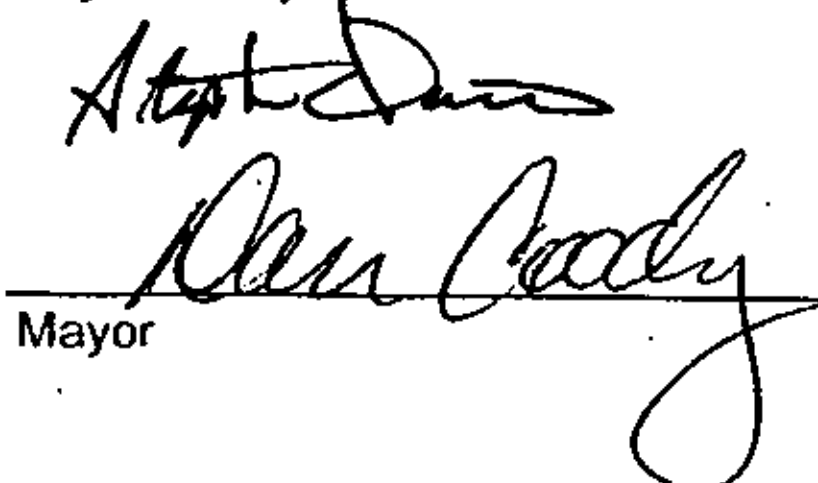
Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

1/3/2006
Date

Received in City Clerk's Office
ENTERED
12-30-05


Mayor

1/3/2006
Date

1/4/06
Date

Received in Mayor's Office
ENTERED
1/3/06

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Director of Planning and Development Management
DATE: December 30, 2005
SUBJECT: Approval of a Contract and Bid Waiver Ordinance for Fayetteville
Downtown Partners in the Amount of \$90,000

RECOMMENDATION

Staff recommends approval of a contract and bid waiver ordinance for Fayetteville Downtown Partners in the amount of \$90,000.

This is the second year in a three year funding request for Fayetteville Downtown Partners.

2005 Budgeted	\$150,000
2006 Budgeted	\$ 90,000
2007 Proposed	\$ 40,000

Fayetteville Downtown Partners (FDP) is uniquely qualified and capable to perform the identified contractual services for the City of Fayetteville. Fayetteville Downtown Partners primary mission to assist the City in the implementation of the Downtown Master Plan. This is the only organization that currently exists that represents the entire area that is included in the Downtown Master Plan.

BACKGROUND

The City Council approved a line item in the 2006 budget to contract with Fayetteville Downtown Partners. Downtown Partners has developed an interim business plan with the goal to become self sufficient within three years with reduced City funding over the next two years. Specifically, the 2006 scope of work includes:

- Establish a Downtown Improvement District (DID)
- Strengthen the infrastructure of Downtown Fayetteville
- Create a cultural District in Downtown Fayetteville
- Supporting Downtown Business
- Engaging Downtown Neighborhoods
- Marketing the Downtown Experience .

BUDGET IMPACT

The City Council reviewed this request for funding in the 2006 budget process as part of the non-profit funding requests and approved a line item in the adopted 2006 budget. The proposed funding is from the Wilson Springs Land Sale Proceeds.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT FOR SERVICES WITH FAYETTEVILLE DOWNTOWN PARTNERS IN THE AMOUNT OF \$90,000.00 TO ASSIST IN THE IMPLEMENTATION OF THE DOWNTOWN MASTER PLAN.

WHEREAS, Fayetteville Downtown Partners is the only organization that currently exists that represents the entire area that is included in the Downtown Master Plan; and,

WHEREAS, Fayetteville Downtown Partners is therefore, uniquely qualified and capable of performing the identified contractual services for the City of Fayetteville.

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 and hereby approves a contract for services with Fayetteville Downtown Partners in the amount of \$90,000.00 to assist in the implementation of The Downtown Master Plan. A copy of the contract for services is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and APPROVED this 17th day of January, 2006.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas

Allocation of Wilson Springs Land Sale Proceeds

Wilson Springs Proceeds

2004 Activity:

Botanical Gardens
Fay Jones Trust - Land Purchase

\$ 5,187,115

(750,000)
(50,000)

2005 Activity:

Fayetteville Downtown Partners (Year 1 of 3)
Van Asche Cost Share
Scull Creek Trail
City Plan 2025

(150,000)
(1,032,788)
(500,000)
(250,000)

2006 Activity:

Fayetteville Downtown Partners (Year 2 of 3)

(90,000)

\$ 2,364,327

Requisition No.: 12/30/2005 Date: 12/30/2005
 P.O. Number: Expected Delivery Date:

Vendor #: 5941 Vendor Name: Fayetteville Downtown Partners
 Address: 2030 N. Block Ave. PO Box 3573 Fob Point: Yes: x No: x

City: Fayetteville State: Ar Zip Code: 72702-3573 Ship to code: Division Head Approval
 Requester: Tim Conklin Requester's Employee #: 489 Extension: 267 Quotes Attached: Yes: x No:

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Downtown Partners contract year 2	1	each	90,000.00	\$90,000.00	1010.6600.5734.00			
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:									

Subtotal: \$90,000.00
 Tax:
 Total: \$90,000.00

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

CITY OF FAYETTEVILLE CONTRACT FOR SERVICES

This agreement is entered into on this _____, between the City of Fayetteville, hereinafter known as the City, and Fayetteville Downtown Partners, an Arkansas not-for-profit corporation, hereinafter known as FDP. This contract is for services to be provided during 2006.

Whereas; FDP and the City of Fayetteville recognize that the geographical region defined within the Downtown Master Plan is undergoing significant change.

Whereas; this change is creating challenges and opening opportunities for the City, residents, businesses, landowners and developers

Whereas; The City desires to promote a partner that will assist in the resolution of these challenges and work with the City to maximize opportunities resulting from these changes

Whereas; FDP is the downtown organization that supports both the philosophy and implementation of the Downtown Master Plan and coordinates multiple, interrelated partners - businesses, residents, elected officials, City staff, cultural institutions and the University of Arkansas - on those initiatives that affect downtown stakeholders.

Whereas; FDP is uniquely qualified and capable of assisting the City in carrying out the objectives identified above

Now, therefore, in consideration of the mutual covenants contained herein, the City and FDP agree to the following:

1. FDP agrees to perform the following services for the City of Fayetteville.

Establish a Downtown Improvement District (DID)

- Build consensus among downtown stakeholders
- Develop a baseline role for a DID which can be utilized to achieve the legislative authorization by the Fayetteville City Council
- Facilitate the process to create a DID management plan, budget, and district boundaries
- Collect signatures of property owners representing two-thirds (67%) of the total assessed downtown property value
- Gain City Council approval for the creation of the DID
- Install the necessary structures to initiate the DID in 2006, with initial DID funding beginning in 2007

Strengthen the infrastructure of Downtown Fayetteville

- FDP will provide assistance to City staff in the facilitation of public meetings and public relations as requested, for initiatives impacting the Master Plan area

- FDP staff and/or board members will meet with City staff and/or elected officials as appropriate to coordinate efforts to implement the Downtown Master Plan

Create a Cultural District in downtown Fayetteville

- Establish the boundaries and define the services of the Cultural Arts District
- Produce, strengthen, and support arts related events that draw new audiences and cultural tourists to downtown Fayetteville
- Promote and market arts and cultural events in downtown Fayetteville
- Advocate for investing in Fayetteville's creative economy

2. In addition to the above services rendered to the City, FDP will continue to work towards implementing the larger philosophy and vision of the Downtown Master Plan with all downtown stakeholders. To this end, FDP will:

- Achieve visible results that make a difference in our downtown
- Build strong community partnerships
- Attract and retain volunteers
- Sustain credibility within the neighborhood and the community at large
- Promote active outreach to and involvement of all downtown stakeholders
- Develop diversified funding sources for FDP and its various projects

FDP services to downtown stakeholders may include, but are not limited to:

Supporting downtown businesses

- FDP will work with the various economic development groups to support economic development efforts within the Downtown Master Plan boundaries
- Collect, coordinate and manage downtown specific information, including demographics, psychographics, existing business profiles, retail and business trends, available office and retail space and site configurations, traffic counts, and other information that supports business recruitment and retention

Engaging downtown neighborhoods

- Work with the Fayetteville Council of Neighborhoods as it pertains to issues that fall within the boundaries of the Downtown Master Plan
- Partner with the five downtown neighborhood associations to facilitate input into all initiatives that effect downtown stakeholders
- Support the goals of the City of Fayetteville's Neighborhood Program and provide assistance to the program's staff by promoting a higher resident participation in community groups/organizations

Marketing the downtown experience

- FDP will be responsible for establishing and implementing a banner policy and coordinate the installation of banners on downtown light poles and across Dickson Street
- FDP will continue to develop strategic marketing opportunities for the downtown district that is consistent with the overall image campaign for the City of Fayetteville and the Advertising and Promotion Commission

3. FDP will provide written documentation and offer a verbal presentation to the Mayor and City Council during an agenda session two times a year in June and December to

delineate accomplishments undertaken during the preceding period on the services pursuant to paragraph 2.

4. To make available all records for review by the City and City auditors as requested. FDP agrees to comply with the Arkansas Freedom of Information Act as applicable. If the City of Fayetteville requests an independent audit of FDP, then that audit must be requested at least one month prior to audit and at the City's expense.

5. For the purpose of this agreement, the primary liaison for the City will be Tim Conklin. The contact for City related services as identified in this contract will be the Executive Director of Fayetteville Downtown Partners. Communications pertaining to this agreement will be through the respective representatives for the City and FDP.

6. FDP will hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the performance or nonperformance of the services or subject matter of this agreement.

7. Budget – The City agrees to pay FDP up to a total of \$90,000 to be paid semi-annually, with the first \$45,000 payment March 1st and the 2nd \$45,000 payment September 1st

8. FDP will render the City a request for payment as stated in this contract under line Item 7 and the City will pay the invoice within 30 days of receiving the invoice in the City's accounting division.

IN WITNESS WHEREOF, City and consultant have caused this instrument to be signed by their respective duly authorized officers, all on the day and year first above written.

ATTEST:

FAYETTEVILLE DOWNTOWN PARTNERS

Leslie Belden, President

ATTEST:

CITY OF FAYETTEVILLE

Mayor Dan Coody



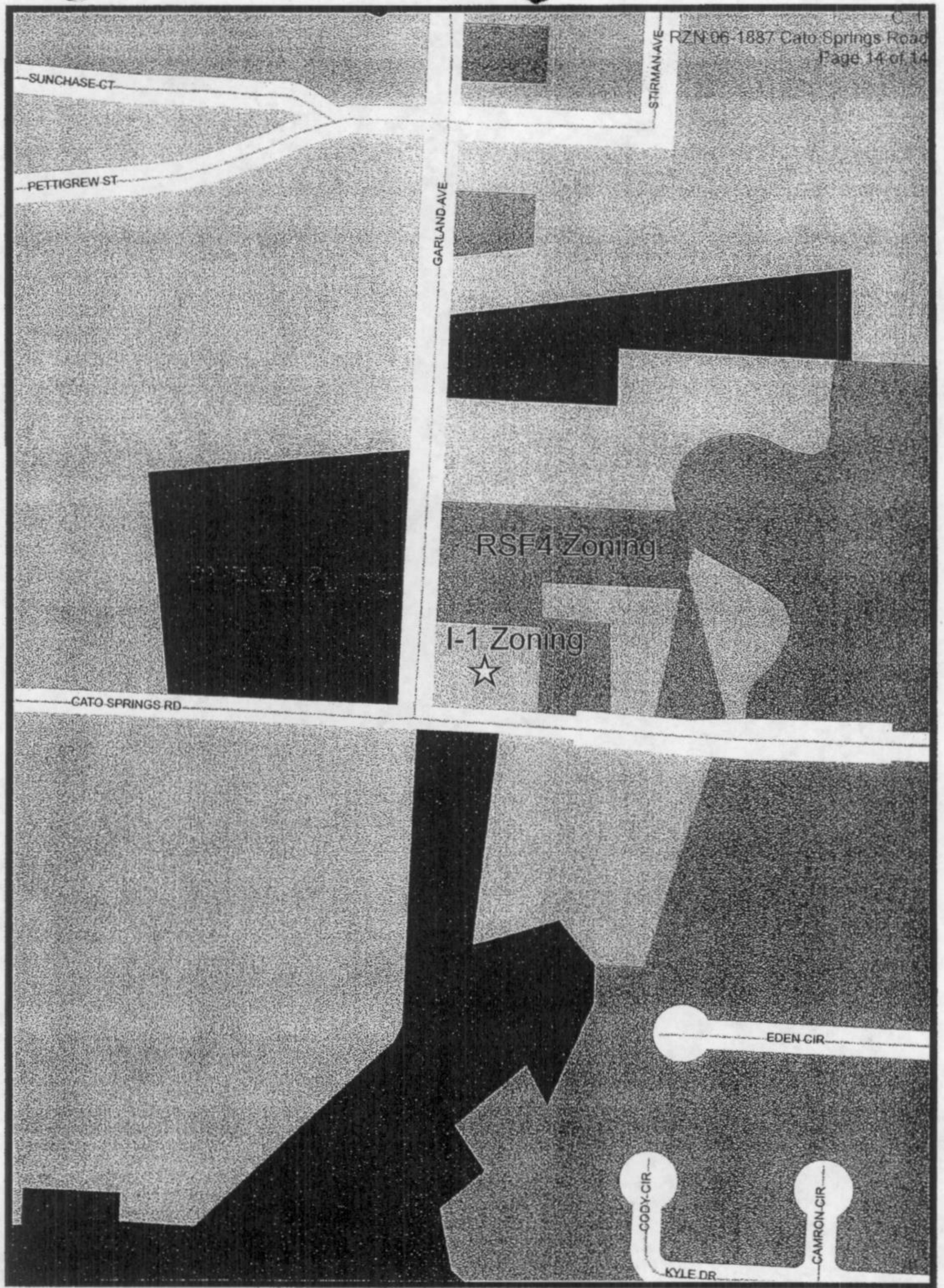
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RZN 06-1887 (Hoggatt, 638/639)

☆ **Project Site**

290 145 0 290 Feet





RZN 06-1887 (Hoggatt, 638/639)

★ **Project Site**

290 145 0 290 Feet

