Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
May 16, 2006

A meeting of the Fayetteville City Council will be held on May 16, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the April 18, 2006 and the April 25, 2006 Special City Council meeting minutes.**

   THE MINUTES FOR APRIL 18, 2006 WERE PULLED BY SONDRA SMITH. THE MINUTES FOR APRIL 25, 2006 WERE APPROVED BY THE CITY COUNCIL.

2. **Paradigm Development Company:** A resolution approving an agreement with Paradigm Development Company for park land dedication at Park West at Audubon.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 86-06.

3. **Williams Tractor Co. Backhoe Purchase:** A resolution awarding Bid #06-34 and approving the purchase of one (1) New Holland Backhoe from Williams Tractor Company in the amount of $54,394.00 for use by the Parks and Recreation Division.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 87-06.

4. **Williams Tractor Co. Utility Work Machine Purchase:** A resolution awarding Bid #06-35 and approving the purchase of one (1) Toolcat Utility Work Machine from Williams Tractor Company in the amount of $33,242.00 for use by the Parks & Recreation Division.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 88-06.

5. **Downing Sales and Service:** A resolution awarding Bid #06-36 and approving the purchase of three (3) recycling trucks from Downing Sales and Service in the amount of $442,314.00 for use by the Solid Waste & Recycling Division.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 89-06.

6. **Water & Sewer Rate Study-2006:** A resolution approving a proposal in the amount of $98,490.00 from HDR/EES to conduct a comprehensive water and sewer rate study; and approving a budget adjustment in the amount of $13,344.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 90-06.

7. **Eclipse Displays, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Eclipse Displays, Inc. to purchase Parcel 2W-South Industrial Park from the City of Fayetteville for $169,800.00; and authorizing the Mayor and City Clerk to execute said agreement.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 91-06.

8. **Dynamic Information Solutions Company, Inc. Software Maintenance Agreement:** A resolution approving a one year standard software maintenance agreement in the amount of $35,797.25 with Dynamic Information Solutions Company, Inc. (D.I.S.C.) to support the Electronic Document Management System.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 92-06.

B. UNFINISHED BUSINESS:

1. **Emergency and Non-Emergency Ambulance Service:** A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville. ***This resolution was Tabled at the April 4, 2006 City Council Meeting to the April 18, 2006 City Council Meeting. This resolution was Tabled at the April 18, 2006 City Council Meeting to the May 16, 2006 City Council Meeting.***

   THIS ITEM WAS TABLED INDEFINITELY.

2. **Amend Title XV of the UDC - Tree Preservation and Protection:** An ordinance amending Title XV: Unified Development Code to provide amendments to certain provisions concerning Tree Preservation and Protection. ***This ordinance was left on the First Reading at the May 2, 2006 City Council Meeting.***

   THIS ITEM WAS REFERRED TO THE ORDINANCE REVIEW COMMITTEE AND WILL BE HEARD WHEN THE COMMITTEE HAS RETURNED IT TO CITY COUNCIL.

C. NEW BUSINESS:

1. **Washington County Cost-Share:** A resolution authorizing payment not to exceed $50,000.00 to Washington County as the City of Fayetteville's share of the cost of the continued evaluation, study and recommendations for Emergency Medical Services.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 93-06.

2. **C-PZD 06-1921 Lazenby Phase II:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 06-1921 Lazenby Phase II, located west of Razorback Road, north of 15^{th} Street, containing approximately 1.34 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

3. **Amend Chapter 115 Pawnbrokers:** An ordinance amending Chapter 115: Pawnbrokers, to require online daily reporting.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4873.

4. **Police Station Location:** A resolution supporting the proposed location of a new police station for the Fayetteville Police Department.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 94-06.

5. **RZN 06-2081 Spirits Shop Liquor Store:** An ordinance rezoning that property described in rezoning petition RZN 06-2081 for approximately 0.28 acres, located at 1242 North Garland Avenue, from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4874.

D. INFORMATIONAL:

City Council Tour: May 15, 2006 - 4:30 PM

Meeting adjourned at 7:25 p.m.

Adjourn 7:25 PM

Robert Rhoads was absent until 6:05 PM

City Council Meeting May 16, 2006

Subject:		Roll			
Motion To:					
Motion By:					
Seconded:					
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓ absent until	6:05 PM.		
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody	✓			

Subject:		Consent		Pulled April 18, 2006	
Motion To:		Approve		Minutes by	
Motion By:		Jordan		City Clerk -	
Seconded:		Ferrell		Sondra Smith	
Res. 86-06 to 92-06 approved with 4/18/06 Minutes pulled by Sondra Smith.	Reynolds	✓		not yet completed	
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

4/25/06 Minutes approved. 7-0

City Council Meeting May 16, 2006

Subject:	Emergency & NON-Emergency Ambulance Service			
Motion To:		Table Indefinitely.		
Motion By:		Thiel		
Seconded:		Reynolds		
B.1. Unfinished	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
Tabled Indefinitely	Rhoads	✓		
	Ferrell	✓		
	Lucas	N		
	Jordan	✓		
	Mayor Coody			

7-1

Subject:	Amend Title XV of the UDC - Tree Preservation			
Motion To:		Table until Ordinance Review Committee reviews and sends back to the City Council.		
Motion By:		Reynolds		
Seconded:		Ferrell		
B.2. Unfinished	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
Tabled	Rhoads	✓		
Until	Ferrell	✓		
Ordinance	Lucas	✓		
Review	Jordan	✓		
Committee reviews	Mayor Coody			

8-0

City Council Meeting May 16, 2006

Subject:		Washington County Cost-Share			
Motion To:		Amend to	approve $	15,000 in funding (not to exceed)	
Motion By:		Marr			
Seconded:		Jordan			
C.I. New Business amendment passed	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Lucas	N			
	Jordan	✓			
	Mayor Coody				

6-2

Subject:		Washington County Cost-Share			
Motion To:		Approve resolution as amended.			
Motion By:		Thiel			
Seconded:		Marr			
C.I. New Business passed	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	absent during	vote		
	Lucas	✓			
	Jordan	✓			
93-06	Mayor Coody				

7-0

City Council Meeting May 16, 2006

Subject:		C-PZD 06-1921 Lazenby Phase II			
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Cook			
C.2. New Business passed Left on the Second Reading	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				
		8-0			

Subject:		Amend Chapter 115 Pawnbrokers			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Reynolds	Jordan		
Seconded:		Marr	Lucas		
C.3. New Business passed 4873	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

City Council Meeting May 16, 2006

Subject:		Police Station Location			
Motion To:		Express	intent to	keep the Police Station	downtown
Motion By:		Rhoads			
Seconded:		Jordan			
C.4. New Business	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
Passed	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
94-06	Mayor Coody				
		8-0			

Subject:		RZN	06-2081	Spirits Shop Liquor Store	
Motion To:		Amend as Jeremy requested		Amend to add Bill of Assurance	
Motion By:		Cook		Cook	
Seconded:		Marr		Jordan	
C.5. New Business	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	absent during vote			
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				
		7-0		8-0	

City Council Meeting May 16, 2006

Subject:		RZN 06-2081 Spirits Shop Liquor Store.			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Cook		
Seconded:		Ferrell	Marr		
C.5. New Business	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
passed	Rhoads	absent during the vote	absent during the vote	absent during the vote	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
4874	Mayor Coody				
		7-0	7-0	7-0	

Subject:					
Motion To:		Adjourn 7:25 PM			
Motion By:					
Seconded:					
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Mayor Coody				

Agenda Session May 9, 2006

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
May 16, 2006

A meeting of the Fayetteville City Council will be held on May 16, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Agenda Session Only: Building Safety Week – Steve Cattaneo

A. CONSENT:

1. **Approval of the April 18, 2006 and the April 25, 2006 Special City Council meeting minutes.**

2. **Paradigm Development Company:** A resolution approving an agreement with Paradigm Development Company for park land dedication at Park West at Audubon.

3. **Williams Tractor Co. Backhoe Purchase:** A resolution awarding Bid #06-34 and approving the purchase of one (1) New Holland Backhoe from Williams Tractor Company in the amount of $54,394.00 for use by the Parks and Recreation Division.

4. **Williams Tractor Co. Utility Work Machine Purchase:** A resolution awarding Bid #06-35 and approving the purchase of one (1) Toolcat Utility Work Machine from Williams Tractor Company in the amount of $33,242.00 for use by the Parks & Recreation Division.

5. **Downing Sales and Service:** A resolution awarding Bid #06-36 and approving the purchase of three (3) recycling trucks from Downing Sales and Service in the amount of $442,314.00 for use by the Solid Waste & Recycling Division.

6. **Water & Sewer Rate Study-2006:** A resolution approving a proposal in the amount of $98,490.00 from HDR/EES to conduct a comprehensive water and sewer rate study; and approving a budget adjustment in the amount of $13,344.00.

7. **Eclipse Displays, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Eclipse Displays, Inc. to purchase Parcel 2W-South Industrial Park from the City of Fayetteville for $169,800.00; and authorizing the Mayor and City Clerk to execute said agreement.

NB #1

8. **Washington County Cost-Share:** A resolution authorizing payment not to exceed $50,000.00 to Washington County as the City of Fayetteville's share of the cost of the continued evaluation, study and recommendations for Emergency Medical Services.

— Add - Dynamic Information Solutions, Inc. Software Maint. Agreement

B. UNFINISHED BUSINESS:

1. **Emergency and Non-Emergency Ambulance Service:** A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville. ***This resolution was Tabled at the April 4, 2006 City Council Meeting to the April 18, 2006 City Council Meeting. This resolution was Tabled at the April 18, 2006 City Council Meeting to the May 16, 2006 City Council Meeting.***

2. **Amend Title XV of the UDC - Tree Preservation and Protection:** An ordinance amending Title XV: Unified Development Code to provide amendments to certain provisions concerning Tree Preservation and Protection. ***This ordinance was left on the First Reading at the May 2, 2006 City Council Meeting.***

C. NEW BUSINESS:

1. **C-PZD 06-1921 Lazenby Phase II:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 06-1921 Lazenby Phase II, located west of Razorback Road, north of 15th Street, containing approximately 1.34 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

2. **Amend Chapter 115 Pawnbrokers:** An ordinance amending Chapter 115: Pawnbrokers, to require online daily reporting.

3. **Police Station Location:** A resolution supporting the proposed location of a new police station for the Fayetteville Police Department.

— add; RZN 06-2081 Spirits Store Liquor Shop.

D. INFORMATIONAL:

City Council Tour: May 15, 2006 - 4:30 PM

From: Steve Cattaneo
To: Sondra Smith
Date: 4/5/06 2:02PM
Subject: Fwd: Re: Agenda session May 9

I guess the best title would be "Building Safety Week "

>>> Gary Dumas 04/05/06 2:00 PM >>>
yes

>>> Steve Cattaneo 04/05/06 1:57 PM >>>
I would like to make a brief (5min) presentation to the Council about Building Safety Week at the agenda session. May I have your permission?

>>> Sondra Smith 04/05/06 12:28 PM >>>
Check to see if it is okay with your Department Director and we will add it. Email me back with the title you want placed on the agenda. Thanks!

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> Steve Cattaneo 04/05/06 11:37 AM >>>
I would like to make a brief (5min) presentation to the Council about Building Safety Week. What do I need to do to get on the agenda for the agenda session only?

May 16, 2006
Agenda

From: Michele Bechhold
To: Wood, Amber
Date: 5/5/06 5:23PM
Subject: Information Item for Agenda Session

For each Agenda Session starting with May 9 and ending with July 11 I need an informational item to be on the agenda.

Johanson Group: Progress Report on Phase I of the Classification and Compensation System Project - Job Description Development

I know the 5-9 Tentative Agenda is already out, but they will still need to make a report on Tuesday. Sondra said that she would tell the Mayor this.

Thanks for your help
Michele

From: Sondra Smith
To: Coody, Dan
Date: 5/5/06 6:36PM
Subject: Agenda Session 05/09/06

Michele in HR called and they need to have Mr. Johanson give a brief report at Agenda Session on May 9, 2006 regarding the salary survey. This report is not on the agenda so you will have to request it to be added to the agenda. Thanks!

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

Pre Agenda Session 5/3/06

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Ward 1 Position 1 - Robert Reynolds
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Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 16, 2006

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Call to Order
Roll Call
Pledge of Allegiance

Agenda Session Only: Building Safety Week – Steve Cattaneo

A. CONSENT:

April 18, & 25th

1. **Approval of the ~~May 2,~~ 2006 City Council meeting minutes.**

2. **Paradigm Development Company:** A resolution approving an agreement with Paradigm Development Company for park land dedication at Park West at Audubon.

3. **Williams Tractor Co. Backhoe Purchase:** A resolution awarding Bid #06-34 and approving the purchase of one (1) New Holland Backhoe for Williams Ford Tractor Company in the amount of $54,394.00 for use by the Parks and Recreation Division.

4. **Williams Tractor Co. Utility Work Machine Purchase:** A resolution awarding Bid #06-35 and approving the purchase of one (1) Toolcat Utility Work Machine from Williams Tractor Company in the amount of $33,242.00 for use by the Parks & Recreation Division.

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D. INFORMATIONAL:

City Council Tour: May 15, 2006 - 4:30 PM

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **May 17, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting of May 16, 2006**

1. **Paradigm Development Co.:** Resolution approving agreement w/Paradigm Development Co. for park land dedication at Park West at Audubon'

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Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION
Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6415

AFFIDAVIT OF PUBLICATION

I, Maria Attaway, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of:

Final Agenda

Was inserted in the Regular Editions:

May 15, 2006

Publication Charge: $199.00

Subscribed and sworn to before me
This 15 day of May, 2006.

Notary Public Sharlene D. Williams

My Commission Expires:

Sharlene D. Williams
Notary Public
State of Arkansas
My Commission Expires
October 18, 2014

****NOTE** Please do not pay from Affidavit.
Invoice will be sent.**

RECEIVED
MAY 18 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
MAY 16, 2006

Fayetteville ARKANSAS

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3. Amend Chapter 115 Pawnbrokers: An ordinance amending Chapter 115: Pawnbrokers, to require online daily reporting.
4. Police Station Location: A resolution supporting the proposed location of a new police station for the Fayetteville Police Department.
5. RZN 06-2081 Spirits Shop Liquor Store: An ordinance rezoning that property described in rezoning petition RZN 06-2081 for approximately 0.28 acres, located at 1242 North Garland Avenue, from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

D. INFORMATIONAL:
City Council Tour: May 15, 2006 - 4:30 PM

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
May 16, 2006

A meeting of the Fayetteville City Council will be held on May 16, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the April 18, 2006 and the April 25, 2006 Special City Council meeting minutes.**

2. **Paradigm Development Company:** A resolution approving an agreement with Paradigm Development Company for park land dedication at Park West at Audubon.

3. **Williams Tractor Co. Backhoe Purchase:** A resolution awarding Bid #06-34 and approving the purchase of one (1) New Holland Backhoe from Williams Tractor Company in the amount of $54,394.00 for use by the Parks and Recreation Division.

4. **Williams Tractor Co. Utility Work Machine Purchase:** A resolution awarding Bid #06-35 and approving the purchase of one (1) Toolcat Utility Work Machine from Williams Tractor Company in the amount of $33,242.00 for use by the Parks & Recreation Division.

5. **Downing Sales and Service:** A resolution awarding Bid #06-36 and approving the purchase of three (3) recycling trucks from Downing Sales and Service in the amount of $442,314.00 for use by the Solid Waste & Recycling Division.

6. **Water & Sewer Rate Study-2006:** A resolution approving a proposal in the amount of $98,490.00 from HDR/EES to conduct a comprehensive water and sewer rate study; and approving a budget adjustment in the amount of $13,344.00.

7. **Eclipse Displays, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Eclipse Displays, Inc. to purchase Parcel 2W-South Industrial Park from the City of Fayetteville for $169,800.00; and authorizing the Mayor and City Clerk to execute said agreement.

8. **Dynamic Information Solutions Company, Inc. Software Maintenance Agreement:** A resolution approving a one year standard software maintenance agreement in the amount of $35,797.25 with Dynamic Information Solutions Company, Inc. (D.I.S.C.) to support the Electronic Document Management System.

B. UNFINISHED BUSINESS:

1. **Emergency and Non-Emergency Ambulance Service:** A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville. ***This resolution was Tabled at the April 4, 2006 City Council Meeting to the April 18, 2006 City Council Meeting. This resolution was Tabled at the April 18, 2006 City Council Meeting to the May 16, 2006 City Council Meeting.***

2. **Amend Title XV of the UDC - Tree Preservation and Protection:** An ordinance amending Title XV: Unified Development Code to provide amendments to certain provisions concerning Tree Preservation and Protection. ***This ordinance was left on the First Reading at the May 2, 2006 City Council Meeting.***

C. NEW BUSINESS:

1. **Washington County Cost-Share:** A resolution authorizing payment not to exceed $50,000.00 to Washington County as the City of Fayetteville's share of the cost of the continued evaluation, study and recommendations for Emergency Medical Services.

2. **C-PZD 06-1921 Lazenby Phase II:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 06-1921 Lazenby Phase II, located west of Razorback Road, north of 15th Street, containing approximately 1.34 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

3. **Amend Chapter 115 Pawnbrokers:** An ordinance amending Chapter 115: Pawnbrokers, to require online daily reporting.

4. **Police Station Location:** A resolution supporting the proposed location of a new police station for the Fayetteville Police Department.

5. **RZN 06-2081 Spirits Shop Liquor Store:** An ordinance rezoning that property described in rezoning petition RZN 06-2081 for approximately 0.28 acres, located at 1242 North Garland Avenue, from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

D. INFORMATIONAL:

City Council Tour: May 15, 2006 - 4:30 PM

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
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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

City of Fayetteville Arkansas
Special City Council
Meeting Minutes
April 25, 2006

A Special meeting of the Fayetteville City Council was held on April 25, 2006 at 5:30 PM in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

New Business:

Johanson Group Contract Approval: Consulting services for the identification of salary survey benchmark jobs and development of updated job descriptions for all City positions.

Alderman Ferrell: Mayor, I asked that we have a Special City Council meeting to consider this contract. Alderman Marr had asked me to serve on a committee to do an RFP and get somebody to do the first part, the consulting services for the identification of salary survey benchmark jobs and development of updated job descriptions for all City positions. We met, we reviewed the RFP's, we then had a meeting and interviewed the selected applicants and recommend them for approval.

Alderman Marr: The committee felt like during our meetings with employees and with the staff that one of the things that was critical and that we kept hearing was that the positions that we were taking to market need to correctly reflect the roles and responsibilities that they do. The last time job descriptions were done was quite some time ago and so we felt that that was the first step. The timing of this was important because when we go to the next phase which is Phase I of the actual consultant work, pay, philosophy, market, etc. we did not want them to have to wait from a timing perspective to do job descriptions. That is why the order is the order that it is.

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

Mr. Johanson: We are real pleased to have this opportunity to work with the City and we will do a good job for you.

Resolution 77-06 as Recorded in the Office of the City Clerk.

Meeting adjourned at 5:55 p.m.

5/9/06
Added at
agenda Session
5/16/06 agenda
Consent

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

MAY 16, 2006
City Council Meeting Date

Lesa Brosch	Information Technology	Finance and Internal Services
Submitted By	Division	Department

Action Required:

Staff recommends approval of a 1 year Standard Software Maintenance Agreement Contract with Dynamic Information Solutions Company, Inc. (D.I.S.C.)

$ 35,797.25	$ 214,690.00	Maintenance
Cost of this request	Category / Project Budget	Program Category / Project Name
1010-1710-5416.00	$ 162,866.00	Information Technology
Account Number	Funds Used to Date	Program / Project Category Name
	$ 51,824.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — Date: 5-3-06

City Attorney — Date: 5/5/06

Finance and Internal Service Director — Date: 5-3-06

Mayor — Date: 5/8/06

Previous Ordinance or Resolution # ____

Original Contract Date: ____

Original Contract Number: ____

Received in City Clerk's Office
ENTERED 5/4/06

Received in Mayor's Office
ENTERED 5/5/06

Comments:

Fayetteville
ARKANSAS

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8214

To: **Mayor Dan Coody**

Thru: **Steve Davis, Finance Director Interim**
Scott Huddleston, IT Manager SH

From: **Lesa Brosch, Business Systems Analyst** LB

Date: **May 01, 2006**

Subject: Agenda Item to approve 1 Service and Support Agreement (2006) with D.I.S.C. for the EDMS.

BACKGROUND

The City implemented an Electronic Document Management System (EDMS) in the third quarter of 2005 from Dynamic Information Solutions Company, Inc (D.I.S.C.) The EDMS is a city-wide document management system. The implementation consisted of Appxtender Document Management, Appxtender Image Capture, Webxtender, Verity Telefoms, and Records Management.

The Appxtender Image Capture is an application that allows for scanning documents in large batches. This application is currently being utilized by the City Clerks Office, Purchasing and the Police Department.

Appxtender Document Management (AX) is an application that allows for indexing, editing and retrieval of documents. This application is currently being utilized by the City Clerks Office, Purchasing and the Police Department.

Webxtender is an application that allows for view, print and processing of documents. This application is currently being utilized by the City Clerks Office, Purchasing, Police Department and Accounting. This application, in the future, will allow citizen's access through the web to the city's public documents.

Verity Teleforms is an application that allows for automated index (data) capture of values from scanned documents and index processing in AX applications. This software is currently being utilized in the Police Department.

Records Management is an application that automates the retrieve and index process of reports from the AS/400 into AX. This process is being utilized for reports from the Business Office and Accounting.

Historically, the City of Fayetteville utilized a full time Microfilm Clerk for microfilming and processing all city documents. The EDMS allows for multi-divisional scanning to increase the records management storage process. In the past, the Microfilm Clerk could process approximately five hundred thousand documents a year, which averaged to be 2,032 documents per day. With the EDMS recently moving from a test environment to a production environment, this same individual is able to process approximately 6,500 documents in a day.

Once the city has processed enough documents, city staff will incorporate the use of the Webxtender to citizens on the city's website. The Webxtender application is scheduled to go online in the fall of 2006. This process will allow citizens the capability to retrieve public documents without a visit to city hall. Previously, all document retrieval was coordinated through the Microfilm Clerk. The EDMS has the potential to eliminate this time consuming process with the Websxtender Application.

RECCOMENDATION

Staff recommends approval of 1-Year Standard Software Maintenance Agreement Contract with Dynamic Information Solutions Company, Inc. (D.I.S.C.)

DISCUSSION

Service and Maintenance fees are necessary to keep software current. These fees allow the City to receive updates and enhancements to the software as they become available. In addition, Service and Maintenance fees provide technical phone support and problem troubleshooting and resolution. The software products that we have purchased from D.I.S.C. are essential to the City's day to day operations and it is important that we keep these assets current.

RESOLUTION NO. ______

A RESOLUTION APPROVING A ONE YEAR STANDARD SOFTWARE MAINTENANCE AGREEMENT IN THE AMOUNT OF $35,797.25 WITH DYNAMIC INFORMATION SOLUTIONS COMPANY, INC. (D.I.S.C.) TO SUPPORT THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a one year Standard Software Maintenance Agreement in the amount of $35,797.25 with Dynamic Information Solutions Company, Inc. (D.I.S.C.) to support the Electronic Document Management System. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

D.I.S.C.

Dynamic Information Solutions Company, Inc. (D.I.S.C.)
15 Shackleford Drive, Suite A
Little Rock, AR 72211

CONTRACT # **05-2346**

SYSTEM SERIAL # **FAY001**

____ Original Contract
__x__ Renewal

ApplicationXtender; Verity Teleform

Dynamic Information Solutions Company, Inc. (D.I.S.C.)
SERVICE AND SUPPORT AGREEMENT

Dynamic Information Solutions Company, Inc. agrees to provide maintenance service and technical support and the Customer agrees to accept maintenance service and technical support for the invoiced system identified by the serial number listed above (the "System") according to the Terms and Conditions of this Agreement. The Customer will render payment of the Total Amount stated below prior to the commencement of service/support. The Customer may, from time to time by written notice referencing this Agreement and payment to Dynamic Information Solutions Company, Inc., add additional authorized equipment to this Agreement at the then applicable charges, terms and conditions.

Customer:	**City of Fayetteville**
Address:	**113 West Mountain**
City:	**Fayetteville, AR 72701**
Contact:	**Lesa Brosch**

Contract Amount:	**33,735.61**	Invoice Date:	**January 9, 2006**
Applicable Taxes:	**2,061.64**	Commencement Date:	**January 1, 2006**
Contract Total:	**35,797.25**	Expiration Date:	**December 31, 2006**

The additional terms and conditions of the following pages are part of this agreement. The customer acknowledges that the customer has read this agreement, understands it and agrees to be bound by its terms and conditions. Further, the customer agrees that this agreement is the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communication between the parties relating to the subject matter of this Agreement.

City of Fayettevilla Customer

Accepted by
Dynamic Information Solutions Company, Inc.
D.I.S.C.

By: ______________________ Date: ______________ By: ______________________ Date: ______________

Title: ______________________ Title: ______________________

____

Name (Type or Print)

PLEASE M AKE CHECK PAYABLE TO:
Dynamic Information solutions company, Inc.
15 Shackleford Drive, Suite A
Little Rock, AR 72211

ADDITIONAL TERMS AND CONDITIONS

1. *TERM:*
   a. *This Agreement, signed by Dynamic Information Solutions Company, Inc. and the Customer, will go into effect the first day following the 90 Day Limited Warranty Policy provided the Customer has rendered payment of the Total Amount (Payment) to Dynamic Information Solutions Company, Inc. on or before the 89th calendar day after the original Invoice Date.*

   b. *The Commencement Date is considered the 91st calendar day after the original Invoice Date.*

   c. *In order for the Term to be automatically renewed one or more times in yearly increments, Payment, at the then applicable Charges, must be received by Dynamic Information Solutions Company, Inc. prior to the Expiration Date then in effect. Once this Payment is received, the Term is renewed for one year commencing on the day after the Expiration Date for the preceding year.*

   d. *If payment is not received by the expiration date, Dynamic Information Solutions Company will no longer provide hardware or software support for the items covered under the terms of this agreement. All telephone and onsite support after the expiration date will be billed at the rate of $250.00 per hour in addition to any travel expenses and/or parts and repair expenses.*

2. *MAINTENANCE SERVICE & TECHNICAL SUPPORT:*
   a. *For all Systems under this Agreement, Dynamic Information Solutions Company, Inc. agrees to provide within a reasonable time, during Dynamic Information Solutions Company, Inc. normal business hours, the availability of Maintenance Service and Technical Support described as follows:*

   Maintenance Service to keep the System in, or restore the System to, good working order. Maintenance service includes repair or replacement of maintenance parts, as deemed necessary by Dynamic Information Solutions Company, Inc. and repair or replacement of peripheral components, as deemed necessary by Dynamic Information Solutions Company, Inc. Maintenance parts, which may be used parts, will be furnished on an exchange basis and the replaced (returned) parts will become the property of Dynamic Information Solutions Company, Inc..

   Technical Support to ensure operational techniques are proper and to provide technical advice and problem solving expertise. Also included is the support required to install any Dynamic Information Solutions Company, Inc. authorized updates.

   b. *Under this Agreement, the Customer agrees to (i) provide Dynamic Information Solutions Company, Inc. with their serial numbers; (ii) provide a suitable environment as specified by Dynamic Information Solutions Company, Inc., including adequate space, electrical power, air conditioning and humidity control; phone line for modem access for remote diagnostics, (iii) implement appropriate safeguards for the Customer's data, including proper storage of discs and sufficient data backups; and (iv) provide qualified and trained personnel for operation of the System.*

3. *ENGINEERING CHANGES:*
   a. *Engineering changes, determined applicable by Dynamic Information Solutions Company, Inc. will be installed by the Customer unless otherwise specified by Dynamic Information Solutions Company, Inc. The Customer may elect to have only mandatory changes, as determined by Dynamic Information Solutions Company, Inc. installed under this Agreement.*

4. *CHARGES:*

a. For each System under this Agreement, the Customer agrees to pay on the Effective Date to Dynamic Information Solutions, Inc. the service agreement price of the system in this Agreement. This amount shall constitute the Annual Charge.

b. If the Customer requests maintenance service and/or technical support outside the Dynamic Information Solutions Company, Inc. normal business hours, and if such maintenance service and/or technical support is available and provided, the Customer agrees to pay travel expense, then applicable hourly service rates, however, there will be no additional charge for maintenance parts.

c. Maintenance service and/or technical support Charges under this Agreement are not refundable.

5. *PRICE CHANGES:*

a. Dynamic Information Solutions Company, Inc. may, effective on the first day of the succeeding Term which commences on the Effective Date specified in the Service Contract Renewal Form, change the Annual Charge.

6. *TERMINATION OF THIS AGREEMENT:*

a. The Customer may withdraw any or all Systems from this Agreement by not paying the Annual Charge as applicable at the time of renewal.

b. Either party may withdraw any or all Systems from this Agreement at any time by providing 30 days written notice of failure of any other party to comply with any of the Agreement's terms and conditions.

c. Dynamic Information Solutions Company, Inc. may cancel this Agreement if the Customer becomes insolvent or a petition is filed by or against Customer, voluntarily or involuntarily, under any bankruptcy law.

7. *SERVICES FOR ADDITIONAL CHARGE:*

a. The following are not considered maintenance service and/or technical support as described in the section "MAINTENANCE SERVICE AND TECHNICAL SUPPORT":

1. *Repair of damage, replacement of maintenance parts, or any increase in service time caused by accident, disaster, neglect, abuse, or misuse;*
2. *Use of the System for purposes other than for which designed; and*
3. *Transportation; alterations; attachments; accessories; supplies; and expendable items, e.g., bulbs, printer cartridges, power supply batteries, general batteries or any item that has a lifespan due to normal usage.*

b. The following are not eligible for maintenance service and/or technical support as described in the section "MAINTENANCE SERVICE AND TECHNICAL SUPPORT":

1. *Dynamic Information Solutions Company, Inc. Systems not under an agreement;*
2. *Non - Dynamic Information Solutions Company, Inc. parts; and*
3. *Non-Dynamic Information Solutions Company, Inc. repairs or activities, e.g. tampering or unauthorized repair, or attempted repair.*

c. Maintenance service and/or technical support as described in the section "MAINTENANCE SERVICE AND TECHNICAL SUPPORT" will not be provided when the Customer fails to provide a suitable environment.

d. *The services listed in (a), (b) and (c) above, if available and practical for Dynamic Information Solutions Company, Inc. to render, may be provided under this Agreement, however, the Customer agrees to pay travel expenses and parts prices plus travel at the Dynamic Information Solutions Company, Inc. then applicable hourly service rates and minimum charges.*

8. *GENERAL:*

a. *Services provided under this Agreement do not ensure uninterrupted operation of the System and Dynamic Information Solutions Company, Inc. is not responsible for failure to render services or delay to render services due to causes beyond its control.*

b. *This Agreement does not extend to any product which has been repaired or altered by other than service representatives qualified by Dynamic Information Solutions Company, Inc.*

c. *This Agreement is not assignable without the prior written consent of Dynamic Information Solutions Company, Inc. Any attempt to assign any of the rights, duties or obligations of this Agreement without such consent is void.*

d. *Dynamic Information Solutions Company, Inc. charges do include sales, use, excise, value-added or similar taxes. Consequently, in addition to the charges specified herein, the amount of any present or future sales, use, excise, value-added or similar tax applicable to the manufacturer, sale, price, delivery or use of the parts or services furnished hereunder shall be paid by the Customer, in lieu thereof, the Customer will provide Dynamic Information Solutions Company, Inc. with a tax exemption certificate acceptable to Dynamic Information Solutions Company, Inc. and taxing authorities.*

e. *This Agreement will be governed by the laws of the State of Arkansas.*

f. *Dynamic Information Solutions Company, Inc. is not responsible for lost data and images. Cost associated with recovery of lost data or images is solely the responsibility of the customer. The customer is to maintain sufficient backups of <u>all</u> data and images. The customer agrees to routinely check backup systems.*

g. *Dynamic Information Solutions Company, Inc. is not responsible for disasters affecting the systems and hardware provided. Disasaters may include but are not limited to any act of God (i.e., tornado, flood, lightning, earthquake), power surges or power sags, employee theft/vandalism, misuse/neglect, and any other cause beyond the control of Dynamic Information Solutions Company, Inc.*

DISCLAIMER: The warranties contained in this agreement are in lieu of all other warranties, express or implied including any regarding merchantability or fitness for a particular purpose, relating to the use or performance of the products. In no event will Dynamic Information Solutions Company, Inc. be liable for any damages, including but not limited to lost profits, lost savings, or any other consequential damages, even if Dynamic Information Solutions Company, Inc. has been advised of the possibility of such damages, or for any claim against the customer by any other party. Some states do not allow the exclusion or imitation of consequential damages, so the above limitations or exclusions may not apply to the customer. This agreement gives the customer specific legal rights and the customer may also have other rights which may vary from state to state.

Police Station Location

EXISTING FUNDS FROM PREVIOUS ASSET SALES

Use depends on Council Priorities

Cato Springs	1,000,000
Wilson Springs	2,300,000
Continuing Ed Building	207,000
	3,507,000

POTENTIAL ASSETS TO SELL

Use depends on Council Priorities

Location	Acres	Est. Max.	Est. Min.
Tyson Site	5	1,000,000	500,000
Hwy 265	45	4,500,000	2,250,000
Razorback Road	10	2,000,000	1,000,000
		7,500,000	3,750,000
		Existing + Max	Existing + Min
Potential Cash Available		11,007,000	7,257,000

Approx. Cost of New Police Station 69,309 sqft at $209 (2006 dollars)	**16,833,108**	
	Min	**Max**
Funds Needed (2006 dollars)	5,826,108	9,576,108

ESTIMATED Annual Payment	20 yr note	500,000	850,000

Can be absorbed into CIP depending on Council priorities

Average annual revenue growth

Expected increase in turnback from Census

5/9/06
Added at agenda
Session 5/16/06 Agenda
New Business

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF MAY 16, 2006

FROM: KYLE COOK

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

Spirits Shop Liquor Store – Donald Johnston

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2081 FOR APPROXIMATELY 0.28 ACRES, LOCATED AT 1242 NORTH GARLAND AVENUE, FROM C-1, NEIGHBORHOOD COMMERCIAL TO C-2, THOROUGHFARE COMMERCIAL.

APPROVED FOR AGENDA:

Alderman — 5/9/06
Date

Jeremy Pate
Director of Current Planning — 05.08.2006
Date

City Council Meeting of May 16, 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: May 5, 2006

Subject: Rezoning for 1242 North Garland Avenue (Spirits Store Liquor Shop)

RECOMMENDATION

Planning Staff recommends approval of the rezoning from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial, in accordance with the decision of the Circuit Court.

BACKGROUND

The subject property contains approximately 0.28 acres. The property is located at 1242 North Garland Avenue and contains the Spirits Shop Liquor Store. The City's zoning map designates the property as C-1, Neighborhood Commercial. In 1979 the current property owner, Donald Johnston, applied to have the property rezoned from C-1 to C-2, Thoroughfare Commercial (see attached minutes). The City Board of Directors at that time denied the rezoning request and the decision was appealed to the State of Arkansas Circuit Court. The 13th Chancery Circuit Court found in favor of the property owner to rezone the property to C-2, overturning the City's decision to deny the rezoning. However, research into City records indicate that an ordinance was not approved to rezone the property accordingly, and the City's official zoning map still shows the property as C-1. The written decision from the Circuit Court is attached. The applicant is applying for a building permit to construct improvements on the property, which will expand the existing business, as well as add improvements to circulation, parking and landscaping. Based on the current zoning in place, the Planning Division may not issue a building permit to expand a liquor store in the C-1 zoning district. The request is to change the zoning on the site from C-1 to C-2 in accordance with the decision of the Circuit Court in an expeditious manner, to complete the action as directed in 1975.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2081 FOR APPROXIMATELY 0.28 ACRES, LOCATED AT 1242 NORTH GARLAND AVENUE, FROM C-1, NEIGHBORHOOD COMMERCIAL TO C-2, THOROUGHFARE COMMERCIAL.

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

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

From C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial, as shown on Exhibit "A" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this___day of ___, 2006.

APPROVED:

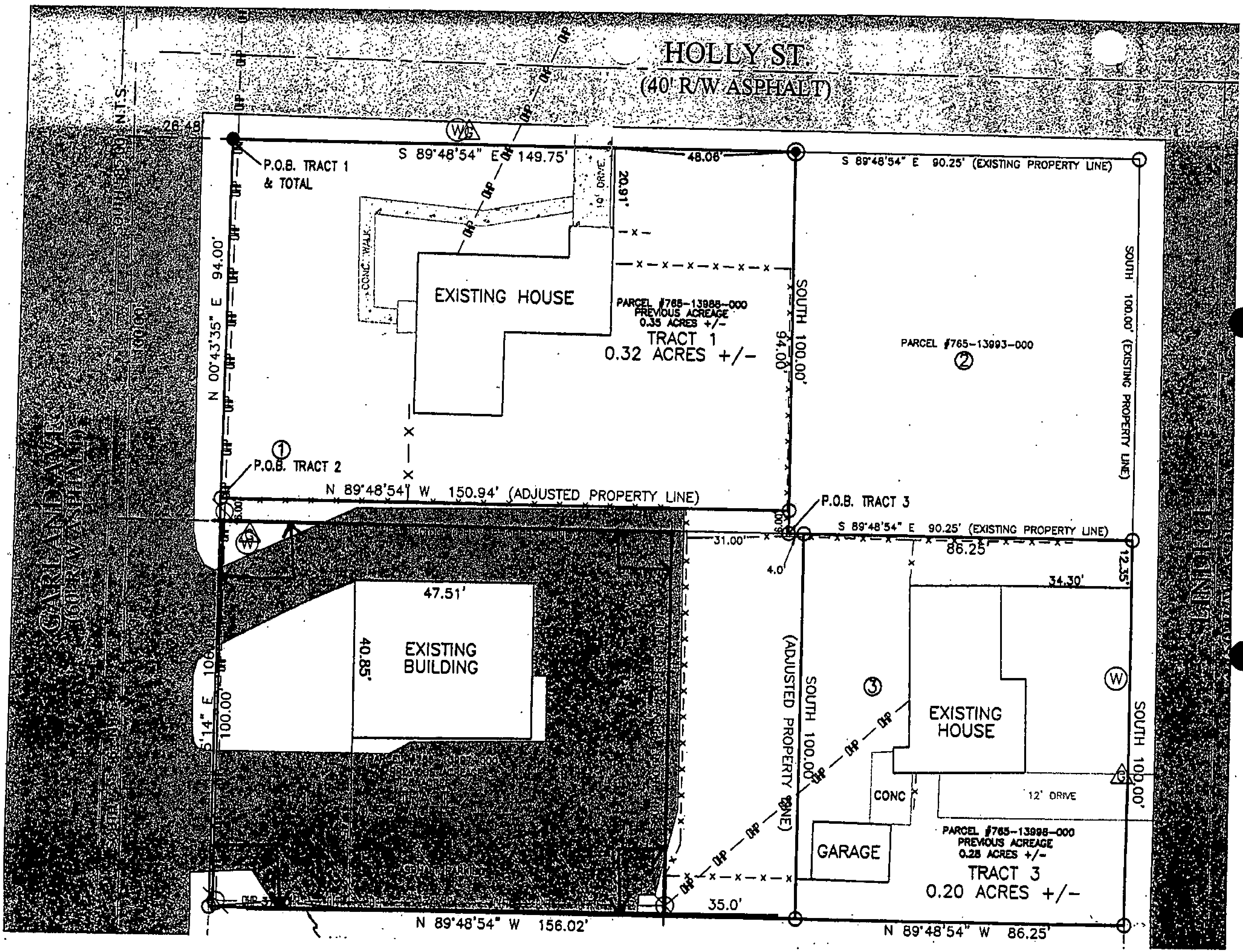
By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
SONDRA SMITH, City Clerk

EXHIBIT "A"

A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS T0-WIT: BEGINNING AT A POINT ON THE RIGHT OF WAY OF GARLAND AVENUE THAT IS SOUTH 585.00' AND S89°48'54"E 25.22' FROM THE NORTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S89°48'54"E 120.00', THENCE SOUTH 100.00', THENCE N89°48'54"W 121.02' TO THE RIGHT OF WAY OF GARLAND AVENUE, THENCE N00°35'14"E 100.00' TO THE POINT OF BEGINNING, CONTAINING 0.28 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD, IF ANY.



HOLLY ST
(40' R/W ASPHALT)
N.T.S.
26.48'
P.O.B. TRACT 1 & TOTAL
S 89°48'54" E 149.75'
48.06'
20.91'
10' DRIVE
CONC. WALK
EXISTING HOUSE
PARCEL #765-13988-000
PREVIOUS ACREAGE
0.35 ACRES +/-
TRACT 1
0.32 ACRES +/-
SOUTH 100.00'
94.00'
N 00°43'35" E 94.00'
P.O.B. TRACT 2
N 89°48'54" W 150.94' (ADJUSTED PROPERTY LINE)
S 89°48'54" E 90.25' (EXISTING PROPERTY LINE)
SOUTH 100.00' (EXISTING PROPERTY LINE)
PARCEL #765-13993-000
P.O.B. TRACT 3
31.00'
4.0'
86.25'
12.35'
34.30'
47.51'
EXISTING BUILDING
40.85'
100.00'
SOUTH 100.00'
(ADJUSTED PROPERTY LINE)
EXISTING HOUSE
CONC
12' DRIVE
GARAGE
PARCEL #765-13998-000
PREVIOUS ACREAGE
0.28 ACRES +/-
TRACT 3
0.20 ACRES +/-
35.0'
N 89°48'54" W 156.02'
N 89°48'54" W 86.25'

STATE OF ARKANSAS
THIRTEENTH CHANCERY CIRCUIT
THOMAS F. BUTT, CHANCELLOR, AND PROBATE JUDGE
FAYETTEVILLE, ARKANSAS 72701

September 17, 1975

Charles N. Williams, Esq.
Attorney at Law
112 S. East
Fayetteville, Ark. 72701

James N. McCord, Esq.
Attorney at Law
14 E. Center
Fayetteville, Ark. 72701

Re: Donald W. Johnston v.
City of Fayetteville
E-75-492

Gentlemen:

I have reviewed the trial record in this case and by this informal letter opinion inform you of my decision.

Plaintiff owns a 100' x 120' lot on the east side of Garland Avenue (State highway 112) in Fayetteville. The 100' dimension fronts on Garland and has a single-family dwelling house thereon. Since February, 1974, the lot has been zoned C - 1 (neighborhood commercial). Plaintiff seeks re-zoning from C - 1 to C - 2 (thoroughfare commercial) and his application to re-zone recites his intent to lease the property for operation of a retail liquor store.

The planning report (plf. Ex. #3) submitted by Larry Wood, contract consultant to defendant on city planning, recommended to the City Planning Commission the requested re-zoning to C - 2. The Planning Commission, at a hearing on April 8, 1975, by vote of 7 "aye" and 1 "abstain", recommended the re-zoning.

On April 15, 1975, defendant's Board of Directors, after a hearing, voted 7 - 0 against the re-zoning. Following that action, this suit was filed on May 30, 1975, to obtain reversal of the Board's action on the grounds that the defendant's action was arbitrary and capricious and deprived plaintiff his lawful use of property without due process of law.

The evidential record reflects that plaintiff's lot is abutted on the North by residential property (also owned by plaintiff) zoned R - O (residential-office). This lot fronts on Garland approximately 120 feet. North of this lot is Holly Street, and

North of Holly Street for at least a quarter mile or more, the zoning is R - 2 (medium density residential).

East, South and West (across Garland Avenue) of plaintiff's lot, adjoining properties are zoned C - 1. The most prominent physical and zoning feature within the whole C - 1 area is the Oak Plaza Shopping Center, located Southeast of plaintiff's lot and within the obtuse angle formed by Garland Avenue and East Mt. Comfort Road.

In terms of business use, the areas sequentially adjacent to plaintiff's lots are: To the South, a "convenience" grocery store, a service station and part of the parking lot of Oak Plaza. To the East, a former residence now used by an insurance agency. To the Southeast, the Oak Plaza Center, containing a grocery supermarket, a drug store, a Ben Franklin Store, a laundry, a Bridal (dress) Shop. Further South and a bit East, across East Mt. Comfort Road, a service station and two restaurants. West, across Garland Avenue are a flower shop, service station and a laundry. Southwest across Garland Avenue is a nearly completed branch bank drive-in facility.

Larry Wood testified for plaintiff, and in support of his recommendation to Planning Commission, that plaintiff's lot is within an established business district that has been such since 1966, and that the present C - 1 area has become such since earlier years as an expanding commercial and business activity area. In his opinion, to re-zone plaintiff's lot would not constitute "spot" zoning because projected and permissible uses thereof would be compatible with adjacent areas of use; that the lot to North of plaintiff, zoned R - O, and Holly Street, together, form an adequate and recognized buffer zone between plaintiff and the wholly residential area North of Holly Street. He concedes that to re-zone, plaintiff could lead to re-zoning of entire shopping center to C - 2, but that such would create no adverse effects on surrounding areas. Permitted uses as generally and specifically listed in Ordinance 1747, both in C - 1 and C - 2, do not exclude retail liquor stores; but the small lot size would preclude some uses authorized for both C - 1 and C - 2.

James Vizzier, consulting planner for defendant City testified he thought C - 2 for plaintiff's lot would be incompatible with C - 1, and that such would be "spot" zoning.

Other witnesses, including experienced realtors and the original developer of Oak Plaza, testified both for and against plaintiff. Their testimonies, generally, support Wood's opinions and conclusions, where called by plaintiff; and differ with Wood, where called by defendant, in saying that the zoning should remain C - 1. None of these testimonies contains the detail of explanation and rationale of zoning principles as applied to this case, that Wood's testimony does. All agree that plaintiff's lot is suitable for C - 2 zoning and uses (excepting uses requiring larger land area than the lot affords) but that it is equally suitable for C - 1 uses.

The original developer of Oak Plaza Center procured the initial C - 1 zoning of the area. He testified for defendant, and said he was against having a liquor store in the area, and was informally committed to help retain the C - 1 zoning. The evidence does not show that any material change in value of this particular lot, nor of surrounding property in general would result from re-zoning.

Both Garland Avenue (State 112), running North - South, and North Street - Mt. Comfort roads, running East - West are designated on the City's major street plan as major arterial traffic conduits. Reference to zoning ordinance 1747 defines a district C - 1 zone as "The neighborhood commercial district.. designed primarily to provide convenience goods and personal services for persons living in surrounding residential areas". District C - 2 is defined as "The thoroughfare commercial district.. designed especially to encourage the functional grouping of these (sic) (those?) commercial enterprises catering primarily to highway travelers".

These definitions are not much help in drawing lines of demarcation between uses permitted or encouraged in C - 2, but restricted or prohibited in C - 1. Objectively, how can one distinguish between a grocery supermarket and a retail liquor store, calling the one a provider of "convenience goods" and the other not so?

Minutes of the Board are revealing. A resident, living at 1633 N. Garland Avenue (thus, presumptively four blocks North of plaintiff's lot, 1245 N. Garland) opposed the re-zoning because he felt a liquor store would be undesirable in a primarily residential area. A spokesman for the University of Arkansas opposed, citing "a local agreement made several years ago whereby no liquor outlets would be located West of the railroad tracks". He also referred to recent legislation prohibiting liquor stores within 600 feet of churches or schools, and stated that the University did not wish to become surrounded by liquor stores just outside the boundary.

The superintendent of the Washington-Madison Baptist Association opposed because the Association office is within 600 feet of plaintiff's lot and the proposed liquor store.

Persons favoring the re-zoning cited the distance people in the area must drive to buy liquor and that a more convenient location would be practical; that it were better to have an outlet nearby than to imbibe while returning home from a distant purchase point. Correspondence from Arkansas Beverage Control Commission was presented, stating in substance that the Commission was not familiar with any agreement concerning location of liquor stores west of the railroad tracks and that such an agreement should have no bearing on approval of the location on Garland Street.

One Director stated he felt no valid reason had been presented for rejection of the re-zoning other than that it would allow a liquor store to be located there. Another Director stated that the Board had no authority to approve or disapprove the location of a liquor permit but that it did have authority to approve the zoning.

In matters of court review of municipal zoning decisions, the court may not substitute its opinion for the expressed judgment of the municipal legislature. It is only when such judgment is shown to be arbitrary and capricious that courts have the power and duty to overturn such decisions. City of Little Rock v. Garner, 235 Ark. 362; City of Little Rock v. McKenzie, 238 Ark. 911; Baldridge v. City of N. Little Rock, June 9, 1975, 258 Ark. 246.

But, as suggested in the rule, the initial zoning authority (here, defendant's Board of Directors) does not have unbridled discretion. Its decisions must be grounded on manifest equal appraisal of all relevant factors. Otherwise, the practical result, in a given instance, would be so to limit the basic right of lawful use of private property that the owner would be deprived of his "property" - the right to use his property - without due process of law.

"Arbitrary", in the context of zoning law is defined as "arising from unrestrained exercise of the will, caprice or personal preference; based on random or convenient selection or choice, rather than on reason and nature"; "decisive but unreasoned action". "Capricious", is defined as "not guided by steady judgment or purpose". Baldridge v. N. Little Rock, supra; McMinn Co. v. Little Rock, 257 Ark. 442.

Further, it has been held that an attempt to restrict an established business district is arbitrary; City of Little Rock v. McKenzie, supra; and that the trend of community commercial

C.5
RZN 06-2081
Spirits Shop Liquor Store
Page 10 of 14

JUDGE THOMAS F. BUTT FAYETTEVILLE, ARKANSAS

growth is an important factor bearing upon re-zoning: City of Helena v. Barrow, 241 Ark. 654.

In my judgment, the clear preponderance of the evidence establishes that the primary, if not the only, reason for defendant's denial of re-zoning to plaintiff was the fear that a liquor store would be operated on the re-zoned lot.

The Board Minutes make this quite apparent. Every other element properly bearing on the question was substantially ignored by the Board: An established commercial district; an expanding commerical district; compatible use; adequate buffer between re-zoned lot and near-adjacent residential areas; a proposed use not prohibited in the area as sought to be re-zoned; no prejudice to property values. One is drawn inescapably, by the Board minutes as well as the testimony of defendant's witnesses, that the ultimate decision was taken because the Board was persuaded that a liquor store was undesirable. The one Director's comment that the Board could not determine a liquor license, but it could approve (or disapprove) the re-zoning epitomizes the real reason for the disapproval.

In my judgment, the Board acted "on random or convenient selection or choice, rather than on reason and nature", and thus its decision was arbitrary and capricious. It follows that the Board's action unconstitutionally deprives plaintiff of due process, and such action must be set aside.

Let decree enter accordingly. Costs hereof are taxed against the defendant.

Yours very truly,

Thomas F. Butt

Thomas F. Butt

TFB/ds
cc. Case file

72 Director Purdy, seconded by Director Hughes, motioned to suspend the rules and place the ordinance on second reading. In roll ca-l vote of the Board the motion passed unanimously and the City Attorney read the ordinance for the second time. Director Noland, seconded by Director Lancaster, mot motioned to further suspend the rules and place the ordinance on third and final reading. The motion passed unanimously in roll call vote of the Board and the City Attorney read the ordinance for the third and final time.

72.2 There being no discussion or comments regarding the request, Mayor Orton asked if the ordinance should pass. In roll call vote of the Board seven "Ayes" and no "Nays" were recorded whereupon the Mayor declared the ordinance passed.

ORDINANCE NO. 2097 APPEARS ON PAGE 282 OF ORDINANCE & RESOLUTION BOOK IV

<u>ORDINANCE REZONING PROPERTY</u> - Donald W. Johnston, petitioner

72.3 The proposed ordinance would rezone a .35 acre tract of land located on the east side of Garland Avenue south of Holly Street from C-1 Neighborhood Commercial to C-2 Thoroughfare Commercial or C-3 Central Business District.

72.4 The City Attorney read the ordinance for the first time after which Director Purdy motioned to suspend the rules and place the ordinance on second reading. The motion, seconded by Director Noland, passed unanimously in roll call vote of the Board and the City Attorney read the ordinance for the second time. Director Noland, seconded by Director Lancaster, motioned to further suspend the rules and place the ordinance on third and final reading. In roll call vote of the Board the motion passed unanimously whereupon the City Attorney read the ordinance for the third and final time.

72.5 Speaking in behalf of Mr. Johnston, attorney Richard Osborne opened his supporting remarks by stating that the did not believe that the Board of Directors was the proper forum for a liquor store "battle". He stated that the petitioner planned to restore and remodel an older vacant house into a liquor store and that the [illegible] commercial area. He stated that traffic generated by the liquor store might eventually be routed through a nearby shopping center but that immediate plans did not envision that possibility.

72.6 Mr. Jamie Jones, 1633 North Garland, was present in the audience to speak in opposition to the rezoning request. His reasons for opposing the rezoning were based on the fact that a liquor store would be undesireable in an area that is primarily residential. He also noted the location of churches and schools in the area and current congested traffic conditions.

72.7 Mr. Ray Trammell, legal counsel for the University of Arkansas, was also present and stated that he had been instructed by the President of the university to attend the meeting and voice opposition to the request in the behalf of the university. Mr. Trammell cited a local agreement made several years ago whereby no liquor outlets would be located west of the railroad tracks. He also cited recent legislation prohibiting liquor stores from locating within 600 feet of churches or schools and stated that the university did not wish to become surrounded by liquor stores just outside the boundary.

Also speaking in opposition to the rezoning request were Mr. Pete Petty, superintendent of the Washington Madison Baptist Association, who stated that the offices of the Association are located within 600 feet of the proposed liquor location. The high concentration of children in the area was cited by Mr. Grover Kirksey who felt the location of a liquor store in the neighborhood would be undesireable. 273.1

Mr. Ernest Jacks, Secretary of the Planning Commission, explained that planning consultant Larry Wood had advised that the C-2 classification was the most logical zoning for the parcel. 273.2

Those speaking in favor of the rezoning cited the distance people in the area must drive to purchase liquor and felt that a more convenient location would be practical. Ms. Nancy Wagonner stated that it would be much better to have a liquor store conveniently located than to have one so far away that persons buying liquor would tend to open the liquor while making the return trip to their home. 273.3

Mr. Osborne then presented the Board with petitions bearing an estimated 2,000 signatures favoring the rezoning request and correspondence from the Arkansas Beverage Control Commission stating that they were not familiar with the "gentlemen's agreement" concerning location of liquor stores west of the railroad tracks and that the agreement should not have any bearing upon the approval of the location on Garland Street. Mayor Orton acknowledged receipt of the documents. 273.4

Director Hughes stated that he had observed the area recently and that liquor store traffic during school hours was minimal and that school children usually cross the street before reaching the area of the proposed liquor store. He felt that no valid reason had been presented for rejection of the rezoning request other than it would allow the location of a liquor store. Director Todd stated that the neighborhood in the area was in the process of changing but that there were a number of private residences in the area whose values would be damaged as a result of the installation of a liquor store. 273.5

Director Purdy addressed the audience and stated that the Board had no authority to approve or disapprove the location of a liquor permit but that it did have the authority to approve the zoning. Mr. Tom Keith, was present in the audience and was of the opinion that the particular problem at hand was indicative of an existing problem in the community; i.e., the citizens do not have a voice in the location of liquor stores. Following further comment and discussion, Mayor Orton asked if the ordinance should pass. In roll call vote of the Board no "Ayes" and seven "Nays" were recorded whereupon the Mayor declared the ordinance failed. 273.6

ORDINANCE AMENDING ORDINANCE 1747

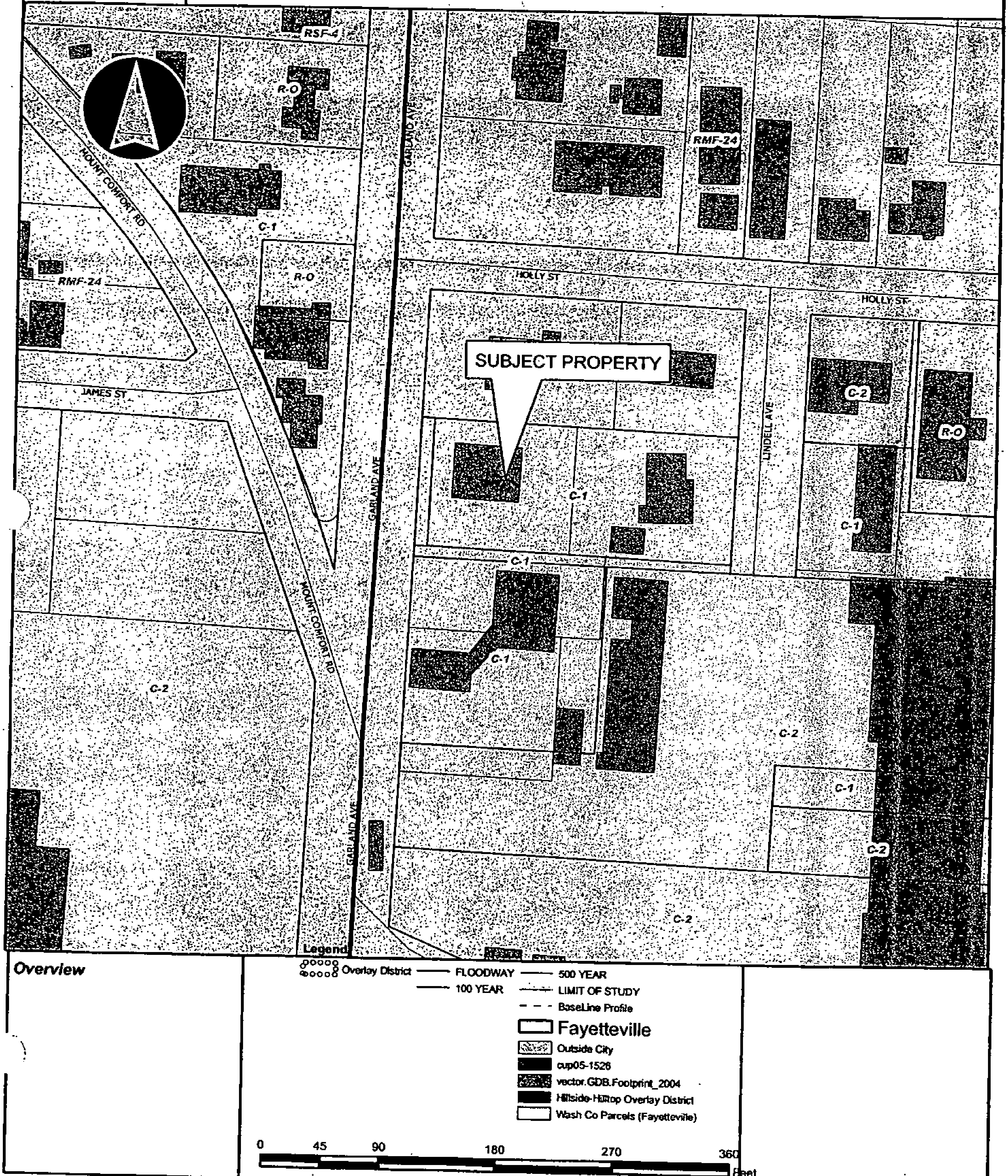
The proposed ordinance would amend Ordinance 1747 by allowing offices, studios, professional offices, and related services to be located in I-1 Heavy Commercial and Light Industrial zoning districts. 273.7

The City Attorney read the proposed ordinance for the first time after which Director Noland motioned to suspend the rules and place the ordinance on second reading. The motion was seconded by Director Hughes and was passed in a unanimous vote of the Board. The ordinance was read for the second time after which Director Purdy motioned to further suspend the rules and place the ordinance on third and final reaidng. The motion was seconded by Director Hughes and unanimously passed in roll call vote of the Board. The ordinance was read for the third and final time by the City Attorney. 273.8

REZONE

Close Up View

REZONE: 1242 GARLAND AVE



Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
May 16, 2006

A meeting of the Fayetteville City Council will be held on May 16, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Agenda Session Only: Building Safety Week – Steve Cattaneo

A. CONSENT:

1. **Approval of the April 18, 2006 and the April 25, 2006 City Council meeting minutes.**

2. **Paradigm Development Company:** A resolution approving an agreement with Paradigm Development Company for park land dedication at Park West at Audubon.

3. **Williams Tractor Co. Backhoe Purchase:** A resolution awarding Bid #06-34 and approving the purchase of one (1) New Holland Backhoe from Williams Tractor Company in the amount of $54,394.00 for use by the Parks and Recreation Division.

4. **Williams Tractor Co. Utility Work Machine Purchase:** A resolution awarding Bid #06-35 and approving the purchase of one (1) Toolcat Utility Work Machine from Williams Tractor Company in the amount of $33,242.00 for use by the Parks & Recreation Division.

5. **Downing Sales and Service:** A resolution awarding Bid #06-36 and approving the purchase of three (3) recycling trucks from Downing Sales and Service in the amount of $442,314.00 for use by the Solid Waste & Recycling Division.

6. **Water & Sewer Rate Study-2006:** A resolution approving a proposal in the amount of $98,490.00 from HDR/EES to conduct a comprehensive water and sewer rate study; and approving a budget adjustment in the amount of $13,344.00.

7. **Eclipse Displays, Inc. Offer and Acceptance:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Eclipse Displays, Inc. to purchase Parcel 2W-South Industrial Park from the City of Fayetteville for $169,800.00; and authorizing the Mayor and City Clerk to execute said agreement.

8. **Washington County Cost-Share:** A resolution authorizing payment not to exceed $50,000.00 to Washington County as the City of Fayetteville's share of the cost of the continued evaluation, study and recommendations for Emergency Medical Services.

B. UNFINISHED BUSINESS:

1. **Emergency and Non-Emergency Ambulance Service:** A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville. ***This resolution was Tabled at the April 4, 2006 City Council Meeting to the April 18, 2006 City Council Meeting. This resolution was Tabled at the April 18, 2006 City Council Meeting to the May 16, 2006 City Council Meeting.***

2. **Amend Title XV of the UDC - Tree Preservation and Protection:** An ordinance amending Title XV: Unified Development Code to provide amendments to certain provisions concerning Tree Preservation and Protection. ***This ordinance was left on the First Reading at the May 2, 2006 City Council Meeting.***

C. NEW BUSINESS:

1. **C-PZD 06-1921 Lazenby Phase II:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 06-1921 Lazenby Phase II, located west of Razorback Road, north of 15th Street, containing approximately 1.34 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

2. **Amend Chapter 115 Pawnbrokers:** An ordinance amending Chapter 115: Pawnbrokers, to require online daily reporting.

3. **Police Station Location:** A resolution supporting the proposed location of a new police station for the Fayetteville Police Department.

D. INFORMATIONAL:

City Council Tour: May 15, 2006 - 4:30 PM

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

16
5/2/2006
City Council Meeting Date

Alison Jumper	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

Approval an agreement between Paradigm Development Company and the City of Fayetteville for Park Land Dedication requirements of Park West.

N/A	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — Date: 4/28/06

City Attorney — Date: 5/1/06

Finance and Internal Service Director — Date: 5-1-06

Mayor — Date: 5/1/06

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 4/28/06

Received in Mayor's Office
ENTERED 5/1/06

Comments:

Fayetteville
ARKANSAS
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Mayor Dan Coody and City Council Members

Thru: Gary Dumas, Director of Operations GE
Connie Edmonston, Parks and Recreation Director

From: Alison Jumper, Park Planner aj

Date: April 28, 2006

Subject: Park Land Dedication agreement for Park West

BACKGROUND

Park West at the Audubon is located west of Hwy. 112, east of Deane Soloman and south of Hwy 112. The owner is Paradigm Development and Milholland Company is the engineer. Clabber Creek trail corridor is located along the south portion of the property and no existing parks are located within a half mile service area of the development.

Park West at the Audubon in its entirety was presented to the Parks and Recreation Advisory Board on January 9, 2006 for a recommendation regarding park land dedication requirements. (See attached minutes.)

CURRENT STATUS

Phase one of Park West at the Audubon, "The Heights at Park West" is currently in the planning review process. The park land dedication requirements for this phase is 2.376 acres or $54,945 for 99 single family units. Phase one currently proposes 100 single family units with one existing single family home on site for which credit will be given.

DISCUSSION

The developer is requesting to dedicate 7.18 acres for a neighborhood park. Additionally, the developer is requesting to develop the park and use the cost of the improvements to meet the park land dedication requirements for future phases of the development.

The dedication of 7.18 acres will be in excess of the requirement for phase one of the development. The excess land will be banked for the future phases of Park West. The land bank will be used as additional phases of Park West are constructed until the bank is depleted.

As stated in the agreement (see attached Agreement) the credit for park improvements made for up to three years of the date of the Agreement will be credited using the rate in effect on January 9th, 2006 (see attached Ordinance).

RECOMMENDATION

The Parks and Recreation Staff and PRAB recommend accepting the dedication of 7.18 acres of park land for a neighborhood park. The remaining dedication requirement will be based on the formula with the final number of multi-family and single family units for money-in-lieu. The cost to construct the park would be deducted from the money-in-lieu requirement as defined in the Agreement. If you have any questions, please call me at 444-3469.

Attachments:

Agreement
Park West site map
Park Location Map
PRAB January 9, 2006 Meeting Minutes
Park Land Dedication Ordinance

RESOLUTION NO. ______

A RESOLUTION APPROVING AN AGREEMENT WITH PARADIGM DEVELOPMENT COMPANY FOR PARK LAND DEDICATION AT PARK WEST AT AUDUBON.

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 Agreement with Paradigm Development Company for park land dedication at Park West at Audubon. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED: ATTEST:

By: ______________________ By: ______________________
DAN COODY, Mayor **SONDRA SMITH**, City Clerk

AGREEMENT

This Agreement, made and entered by and between the City of Fayetteville, Arkansas, a municipal corporation, and Paradigm Development Company Witnesseth:

WHEREAS, Paradigm Development Company seeks to create a Planned Zoning District to be known as "Park West" which would require dedication of parkland sufficient to create a neighborhood park; and

WHEREAS, Paradigm Development Company seeks to dedicate 7.18 acres to create this neighborhood park in accordance with approved R-PZD 05-1796.

WHEREAS, Paradigm Development Company seeks to begin development of this neighborhood park to City of Fayetteville park standards with the development of the first phase of Park West, "The Heights at Park West".

WHEREAS, Paradigm Development Company seeks to utilize the "cash in lieu of park land dedication" to develop the neighborhood park. The cash in lieu credit rate, to be used for improvements made to the park, will be calculated using the cash in lieu rate in effect on January 9, 2006 (see attached ordinance) as approved by the Parks and Recreation Advisory Board on January 9, 2006. This rate shall be effective for up to three years from the date of this agreement; and

WHEREAS, land in excess of the requirement, if any, shall be banked for future phases of Park West and credited at time of final plat of each phase until said bank is depleted; and

WHEREAS, credit will be given for the park land only if the land has been deeded to the City of Fayetteville, and sidewalk construction along street frontage shall be considered part of the street section and will be the responsibility of the developer; and

WHEREAS, the City of Fayetteville's principal purpose when enacting the Parkland Ordinance was for developers to create and develop parks for their new residents which will be satisfied by this agreement.

NOW, THEREFORE, the City of Fayetteville and Paradigm Development Company agree to the following commitments to satisfy the development requirements of Fayetteville Unified Development Code §166.03 (K) Park land dedication.

1. Paradigm Development Company shall provide a minimum 7.18 acre neighborhood park as shown in "Exhibit A" attached hereto and made a part herewith, which has been approved by the Parks and Recreation Advisory Board and Fayetteville Planning Commission.

2. This Agreement shall become effective upon the issuance of final plat for phase one of Park West, "The Heights at Park West".

3. No interest will be accumulated between the time of development of the park and the time credit is given for the improvements.

4. Paradigm Development Company shall design and construct the park in conformance with the City of Fayetteville park standards for neighborhood parks. A master plan for the 7.18 acres shall be reviewed by Park Staff and approved by Parks and Recreation Advisory Board. All site design shall be reviewed and approved by Parks and Recreation Staff. All construction documents and practices shall be reviewed and approved by Parks and Recreation Staff prior to start of construction.

5. Maintenance: Paradigm Development Company or its representative shall maintain the neighborhood park for ten years from the date of issuance of the final plat. Maintenance shall comply with Fayetteville Parks and Recreation maintenance standards and shall be reviewed bi-annually by Parks and Recreation Staff. After this ten year period, the City shall assume normal park maintenance. The developer reserves the right to extend the agreement for two additional five year periods.

6. It is understood that Paradigm Development is not acting as an agent for the City of Fayetteville.

7. It is the policy of the City of Fayetteville that no qualified individual with a disability shall, by reason of that disability, be excluded from participation in or be denied the benefits of the services, program or activities of the City of Fayetteville or be subjected to discrimination by the City of Fayetteville. Paradigm Development agrees to comply with this policy regarding construction of this park.

8. 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 will remain in full force and effect.

9. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

10. This agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This agreement supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof. This agreement may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11. After the park land is deeded to the City and/or the park has been improved, no reimbursement shall be made to Paradigm Development Company if Paradigm Development Company abandons the continued development of subsequent phases of Park West.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of ___________________ 2006.

CITY OF FAYETTEVILLE, ARKANSAS

By:_______________________________
DAN COODY, Mayor

ATTEST:
By:_______________________________
SONDRA SMITH, City Clerk

PARADIGM DEVELOPMENT COMPANY

By:_______________________________
President

ATTEST:
By:_______________________________
Secretary

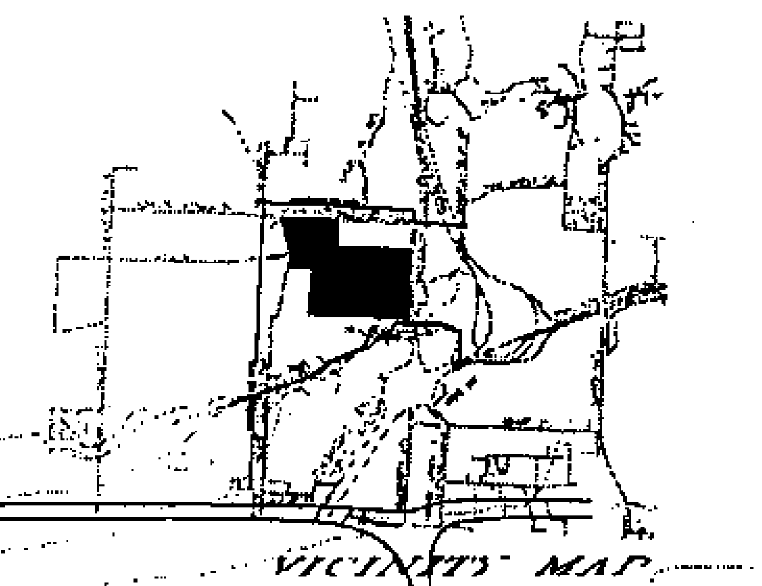
This agreement approved as to form by _______________________________
City Attorney

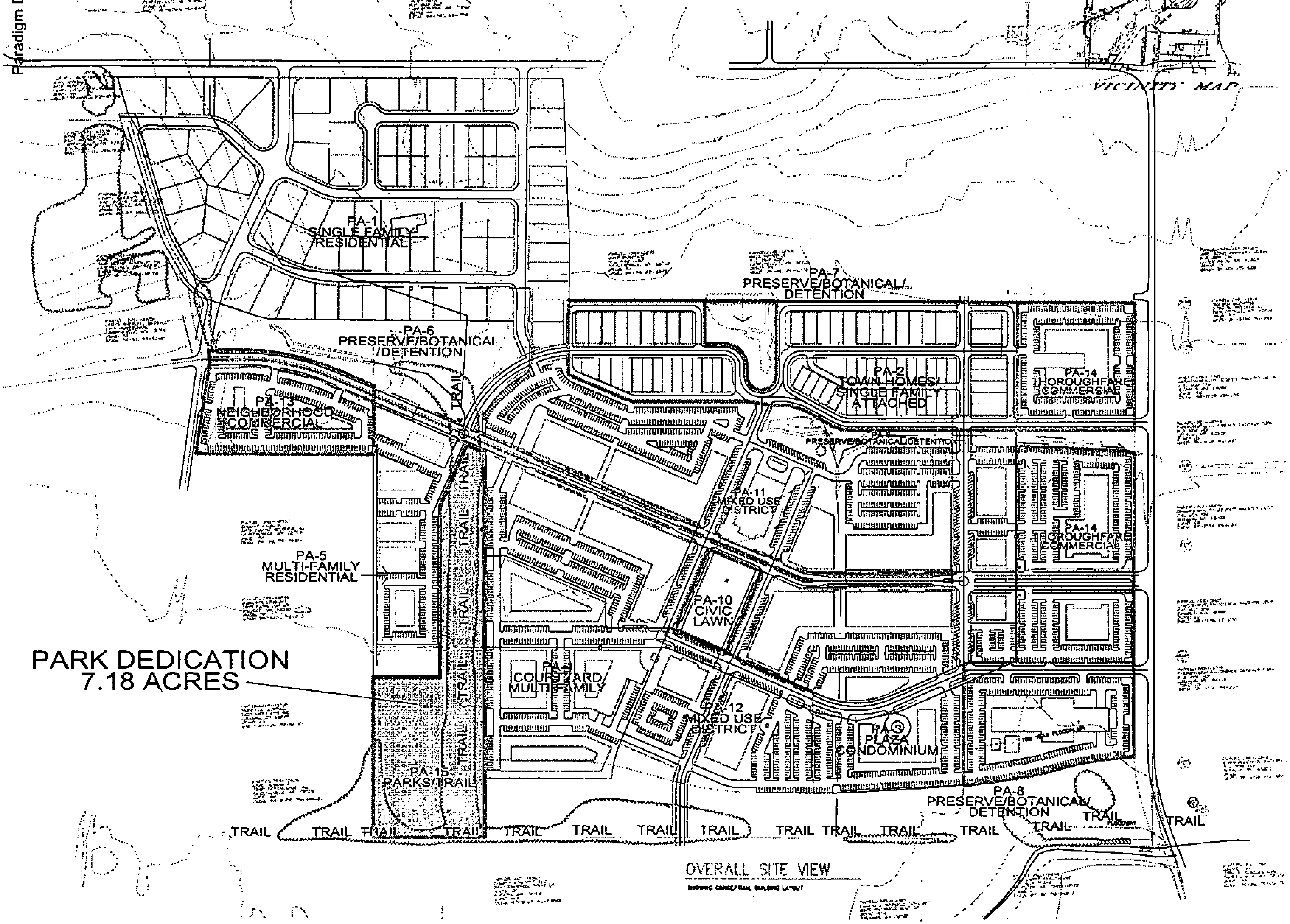
PARK WEST

FAYETTEVILLE, ARKANSAS

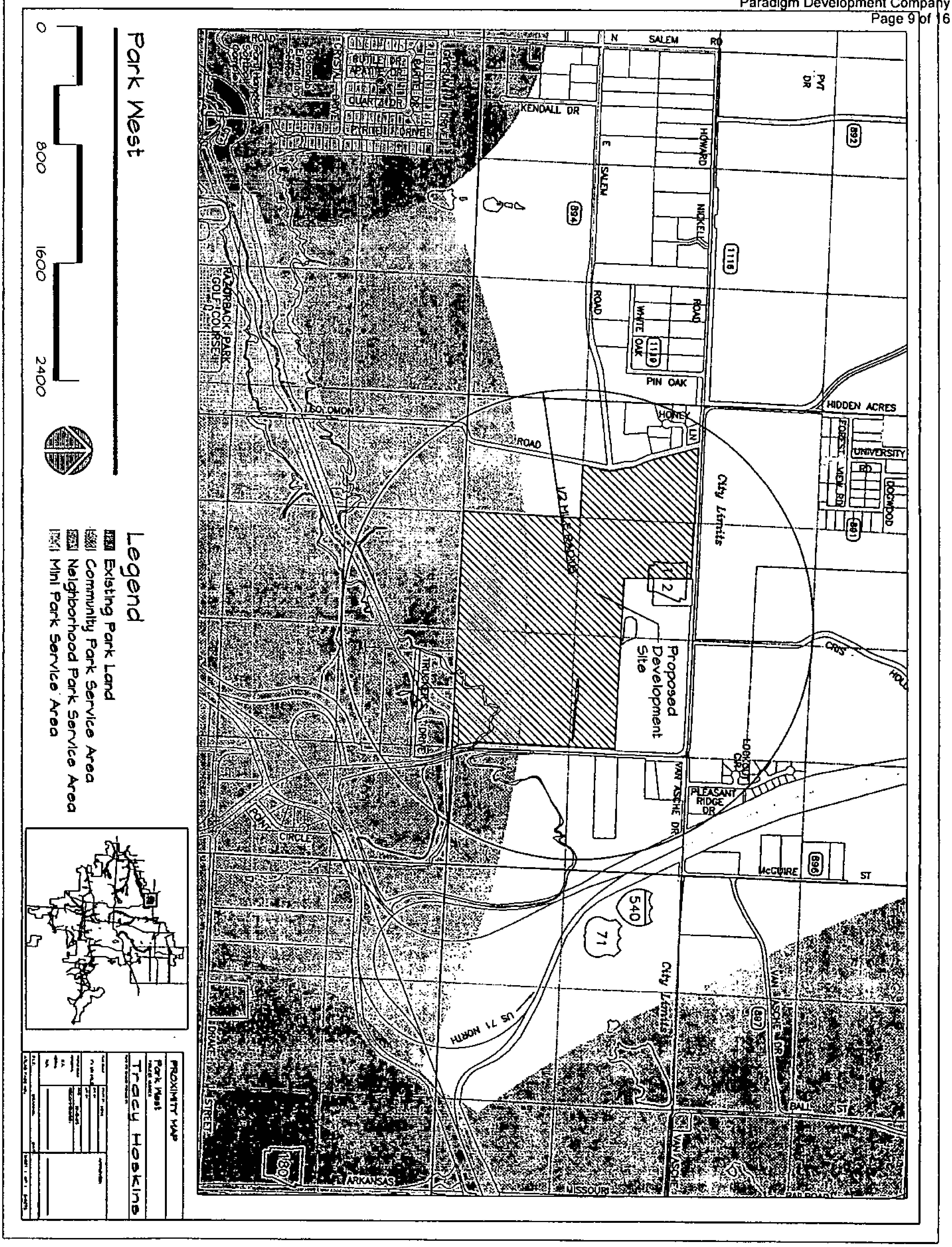
OWNER/APPLICANT
TRACY K. HOSKINS/OLD TOWNE, LLC
FAYETTEVILLE, ARKANSAS

Prepared by
Paradigm Development Enterprises, Inc.
Jim Ramsey, Architect
3155 North College Ave, Suite 2A
Fayetteville, AR 72703
(479)571-1387





OVERALL SITE VIEW


Park West
0
800
1600
2400
Legend
Existing Park Land
Community Park Service Area
Neighborhood Park Service Area
Mini Park Service Area
PROXIMITY MAP
Park West
Tracy Hoskins
Proposed Development Site
City Limits
1/2 MILE RADIUS
SALEM RD
KENDALL DR
HOWARD
NICKELL
WHITE OAK
PIN OAK
HIDDEN ACRES
SOLOMON ROAD
HONEY LN
UNIVERSITY
DOGWOOD
PLEASANT RIDGE DR
VAN ASCHE DR
McGUIRE ST
BALL ST
US 71 NORTH
RAZORBACK PARK GOLF COURSE
CIRCLE
ARKANSAS
MISSOURI
DRAKE STREET
540
71
180

5. Park Land Dedication: Matt Mihalevich, Park Planner

Development Name:	Park West at the Audubon
Engineer:	Paradigm Development Enterprises, Inc.
Owner:	Tracy Hoskins
Location:	West of Garland (Hwy 112), east of Dean Soloman Rd. and South of Hwy 112. (Across from the drive-in)
Park District:	NW
Units:	Unknown number of multi-family & single family
Total Acres:	140 Acres
Land Dedication Requirement:	Unknown
Money in Lieu Requirement:	Unknown
Existing Parks:	No parks within ½ mile radius. Clabber Creek Trail Corridor is located along the south portion of the property.
Developer's Request:	Dedicate 7.18 acres of park land and additional land (size to be determined) for a trail corridor for Clabber Creek Trail, then pay money-in-lieu for the remaining dedication requirement based on the final number of multi-family and single family units. The developer also requests that Park West and its staff be allowed to construct the park using the money in-lieu with direction from the Parks and Recreation staff and maintain the park for 10 years.
Staff Recommendation:	Dedicate 7.18 acres of park land and additional land adequate to construct a 12' wide trail along the southern edge of Park West. The exact size and location would be determined by Parks and Recreation staff. The remaining dedication requirement would be based on the formula with the final number of multi-family and single family units for money-in-lieu. The cost to construct the park would be deducted from this money-in-lieu requirement. The Park shall be constructed in accordance with Fayetteville Parks and Recreation standards with direction and approval from the Parks and Recreation staff. A

detailed cost estimate and master plan including all park amenities shall be presented to PRAB for final approval prior to any park construction. Staff also recommends allowing the developer to maintain the park for 10 years. Maintenance shall comply with the Fayetteville Parks and Recreation neighborhood park service level. Parks and Recreation Staff will secure a detailed agreement outlining all elements of this proposal.

Developer's Comments: Hoskins presented the plan and elaborated on the diversity of land use as well as the desire to maintain open/green spaces. The park to be dedicated by the developer will possibly be maintained by the developer beyond the 10 years. The southern part of the development includes an area for the City trail system that will be needed to connect the East Fayetteville trails with the West Fayetteville trail system. Hoskins stated that the plan is to employee full time staff to maintain all grounds areas of the development including the trail and will therefore be able to respond to problems that may arise in the parks and public areas in a short period of time. He also stated the parks and public areas will be open to all and not restricted to residents of the development only. Developers will use the expected money-in-lieu that will be necessary over and above the land dedication to build the park to Parks and Recreation standards, but the expense of upkeep and maintenance will be the responsibility of the developers.

Justification: A neighborhood park is needed in this area to provide recreational opportunities for the growing number of residents. Maintenance provided by the developer will help ease the increasing demands on the Fayetteville Parks and Recreation maintenance staff.

PRAB Motion: Davis moved to accept the Staff recommendation to accept the dedication of 7.18 acres of park land and additional land adequate to construct a 12' wide trail along the southern edge of Park West. The exact size and location would be determined by Parks and Recreation staff. The remaining dedication requirement would be based on the formula with the final number of multi-family and single family units for money-in-lieu. The cost to construct the park would be deducted from this money-in-lieu requirement. The Park shall be constructed in accordance with Fayetteville Parks and Recreation standards with direction and approval from the Parks and Recreation staff. A detailed cost estimate and master plan including all park amenities shall be presented to PRAB for final approval prior to any park construction. Staff also recommends allowing the developer to maintain the park for 10 years. Maintenance shall comply with the Fayetteville Parks and Recreation neighborhood park service level. Parks and Recreation Staff will secure a detailed agreement outlining all elements of this proposal. Colwell seconded the motion and approval was unanimous with Bailey, Langsner, Harrison, Davidson, Davis, Bitler, Burke, and Colwell voting yes.

and along one side of each street or cul-de-sac at intervals of no more than 300 feet; provided, streetlights of higher intensity may be required at intersections with collector streets or arterial streets.

(K) *Park land dedication.*

(1) *Subdivision.*

(a) *Dedication or fee-in lieu.* When a proposed subdivision does not provide an area or areas for a public park based on the Fayetteville Parks and Recreation Plan, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition and development of park land that serves the subdivision or development.

(b) *Parks and Recreation Advisory Board.* Prior to the submittal of a preliminary plat or large scale development plan, the developer shall submit to the Parks and Recreation Advisory Board a concept plat or plan.

(c) *Planning Commission.* The developer and the Parks and Recreation Advisory Board shall make a joint recommendation to the Planning Commission as to the land dedication or contribution in lieu of dedication. In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue.

(d) *Decision.* The Planning Commission shall determine if the developer will dedicate land or contribute money in lieu of dedication. No land dedication will be accepted as a public park unless it is determined by the Planning Commission, after consultation with the Parks and Recreation Advisory Board, that the physical characteristics of the site, and its surroundings make the site suitable for park purposes and the proposed dedication is consistent with the Fayetteville Parks and Recreation Plan.

(e) *Approval.* The Planning Commission's decision must be incorporated into the developer's preliminary plat or large scale development plan prior to plat or plan approval.

(f) *Dedication ratios.* Land shall be dedicated at a ratio of .024 acre of land for each single-family dwelling unit, .017 acre of land for each multi-family dwelling unit, and .024 acre of land for each mobile home dwelling unit permitted under Zoning, Chapters 160-165.

(g) *Fee-in-lieu formulas.* A contribution in lieu of land dedication shall be made according to the following formula:

$555 for each single-family unit,
$393 for each multi-family unit, and
$555 for each manufactured home unit

permitted under the City's zoning regulations. The Parks Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review.

(h) *Less than maximum density.* If the developer legally restricts the number of dwelling units to be constructed to less than the maximum density permitted by zoning, Chapters 160 through 165, required land dedication or cash contribution in lieu thereof shall be based upon actual density.

(i) *Dedication in excess.* If a developer dedicates park land which exceeds the requirement of this subsection, the Planning Commission may grant the developer a credit equivalent to said excess. Said credit shall be applied toward the developer's obligation under this subsection for any subsequent development located in the same park quadrant.

(2) *Timing of dedication and/or contribution.* All dedications of land must be made before final plat approval or large scale development approval. A final plat shall not be released for recordation until the deed for a land dedication is received. Deeded land is dedicated public park land and not subject to any right of reversion or refund. A cash contribution in lieu of required land development shall be payable within 30 days of final plat approval or large scale development approval. With the approval of the Planning Commission a developer may pay such contribution in three equal

installments to be paid in full within one year of final plat approval. If a developer makes a cash contribution in lieu of land dedication, the developer shall be entitled to a pro rata refund, together with the accrued interest therefrom, in the event actual density is less than the density used as the basis for the developer's contribution; provided, no refund shall be made unless application therefore is made in writing to the Zoning and Development Administrator within one year from the date of final plat approval. In the event actual density is more than the density used as the basis for a dedication of land or case contribution the developer must make an additional land dedication or contribution in lieu of dedication.

(3) *Applicability.* The requirements of this subsection shall apply to lot splits, replats of subdivisions and large scale developments; provided, said requirements shall not apply to a lot split or replat which does not create one or more vacant lots on which a structure could be erected under the city's zoning regulations.

(4) *Zoning Requirements.* Lots created for the purpose of park land dedication shall not be required to meet the standards for lot size, bulk and area within any zoning district.

(5) *Fee-in-lieu allocation.* All money received under this subsection shall be deposited in an interest bearing account. Said money together with the interest, shall be expended within three calendar years of the last date of the calendar year in which it was received for the acquisition and development of park land that services the subdivision for which a contribution in lieu of dedication has been made. If said money has not been expended within the three-year period, said money, together with the interest thereon, shall be refunded to the developer who made the contribution.

(6) *Exemption.* The requirements of this subsection shall not apply to any development where the subdivision plat was filed of record after September 12, 1960, and before January 20, 1981.

(7) *Major development.*

(a) *Process.* In addition to the procedure provided herein and other requirements found in the *Code of Fayetteville*, a developer of a major development shall include on his/her concept plan, preliminary plat and final plat a proposed neighborhood or subdivision park in which the required dedication of land for public park facilities pursuant to (K)(1) through (5) above has been incorporated. The plat with the neighborhood or subdivision park shall be submitted to the Parks and Recreation Advisory Board for its approval. The approval shall then be included in all plats presented to the Planning Commission. Any modification by the Planning Commission of the subdivision or neighborhood park shall be referred back to the Parks and Recreation Advisory Board for its approval.

(b) *Requirements.* The Parks and Recreation Advisory Board shall ensure that the neighborhood park meets these requirements.

(i) The physical characteristics of the designated land are suitable for park purposes.

(ii) The proposed park areas and any included recreational facilities are sufficient to adequately serve the residents of the development/ neighborhood.

(iii) Adequate sidewalks, trails, and/or bikeways shall provide access for all residents of the subdivision/ neighborhood to the park, but no vehicle parking shall be required.

(c) *Fee-in-lieu.* The developer does not have the discretion to pay a cash contribution in lieu of the dedication of land for the establishment of this neighborhood or subdivision park. However, if the Parks and Recreational Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks and Recreation Advisory Board with instructions or for further study.

(d) *Coordination with adjacent properties.* When it appears to the Planning Commission that one or more adjoining subdivisions or large scale developments are being developed, planned, or in the near future will probably be developed so that the total area or housing units meet the requirements of a major development, the Planning Commission may notify the owners/developers that their subdivision or developments shall be considered a major development and require coordination among the owners/ developers to develop a neighborhood park pursuant to this section.

(Code 1965, App. C., Art. III, §A(1); Ord. No. 2695, 1-20-81; Ord. No. 3080, 4-2-85: Ord. No. 3201, 8-5-86: Ord. No. 3315, 11-17-87; Code 1991, §§159.05, 159.30k.; Ord. No. 3578, 11-19-91; Ord. No. 3615, §1, 6-2-92; Ord. No. 3738, §1, 11-16-93; Ord. No. 3793, §1, 5-17-94; Ord. No. 3797, §1, 5-17-94; Ord. No. 4068, §1, 11-4-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4199, 11-2-99; Ord. No.4454, 01-07-03; Ord. No. 4545, 02-17-04)

Cross reference(s)--Variance, Ch. 156; Appeals, Ch. 155; Bonds and Guarantees, Ch. 158.

166.04 Required On-Site Improvements – Subdivisions In Planning Area

(A) *Requirements.* Before the Planning Commission may grant final plat approval for a subdivision located within the city's designated planning area, the subdivider shall have installed, or shall have made a guarantee of in lieu of installation, as provided by. Chapter 158, either at his expense or in accordance with the existing policy of the city, the following improvements:

(1) *Monuments.* Reinforced concrete monuments 4 inches x 4 inches x 30 inches at quarter section corners and subdivision corners.

(2) *Lot stakes.* Metal stakes 1/2 inch x 30 inches at all lot corners, points of tangency, points of curvature and angles in property lines or easements.

(3) *Streets.* Street grading, base, and paving according to existing city standards and specifications as adopted by the City Council.

(4) *Curbs and gutters.* Curbs and gutters according to existing city standards and specifications as adopted by the City Council.

(5) *Grading and storm drainage system.*

(a) The subdivider shall install storm drainage facilities, including drains, sewers, catch basins, and culverts necessary for the proper drainage of all surface water.

(b) All drainage facilities shall be so designed to serve the entire drainage area.

(c) All surface water drainage shall be transported to existing storm sewers, drainage facilities, or natural drainage ditches approved by the City Engineer.

(d) The City Engineer shall approve all drainage features.

(6) *Culverts and bridges.* Culverts and bridges shall be installed where needed in accordance with existing Arkansas State Highway Department standards and specifications.

(7) *Water supply.*

(a) *Accessible public water supply.* When an approved public water supply is reasonably accessible, the subdivider shall install a system of water mains and shall connect to such supply so that each lot within the subdivision shall be provided with a connection to said public water supply. All connections shall be approved by the City Engineer. Individual service lines shall be installed, and individual connections shall be made prior to the paving of the street, if possible.

(b) *Nonaccessible public water supply.* Where an approved public water supply is not reasonably accessible, any private water supply system proposed by the subdivider must be approved by the county sanitarian and the City Engineer in order to assure that the private water supply system will provide an adequate supply of potable water to every lot in the subdivision. Individual service lines shall be installed, and individual connections shall be made prior to the paving of the street, if possible.

(8) *Sanitary sewer system.*

(a) *Public sanitary sewer accessible.* Where a public sanitary sewer is reasonably accessible, the subdivider shall connect with such sewer, and each lot within the subdivision shall be provided with a connection thereto. All connections shall be subject to the approval of the City Engineer. Individual service lines shall be installed, and individual connections shall be made prior to the paving of the street if possible.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

16-May-06
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

A resolution awarding Bid #06-34 to Williams Tractor of Fayetteville in the amount of $54,394 for the purchase of one 4WD Backhoe for use by Parks Division.

$54,394.00	$ 211,000.00	Backhoes/Loaders
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 102,742.00	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02076	$ 108,258.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Previous Ordinance or Resolution # n/a
Original Contract Date: n/a
Original Contract Number: n/a

Department Director — 4-28-06 Date

City Attorney — 4/28/06 Date

5-1-06

Mayor — 5/3/06 Date

Received in City Clerk's Office — ENTERED 4/28/06

Received in Mayor's Office — ENTERED 4/28/06

Comments:

Fayetteville
ARKANSAS

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

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent**

Date: **April 28, 2006**

Subject: **Purchase of one New Holland Backhoe/Loader for Parks Division**

RECOMMENDATION: That City Council approve the purchase of one New Holland Backhoe/Loader for use by Parks Division.

BACKGROUND: Bid #06-34 was opened on April 18, 2006 for one four wheel drive Loader Backhoe for use by Parks Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from A. Camp Equipment Company of Fayetteville does not meet specifications (see attached letter to Equipment Committee). The second lowest bid from Williams Tractor Company of Fayetteville meets all specifications.

I recommend acceptance of the bid from Williams Tractor in the amount of $54,394.00.

This backhoe will replace unit 641, a 1998 Ford backhoe that has been dead lined due to a major transmission failure that is not economically repairable.

Funds are available for this purchase in Fleet Replacement Special Project 02076–Backhoe/Loaders.

The purchase of this unit was approved by the Equipment Committee on April 28th, 2006.

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #06-34 AND APPROVING THE PURCHASE OF ONE (1) NEW HOLLAND BACKHOE FROM WILLIAMS TRACTOR COMPANY IN THE AMOUNT OF $54,394.00 FOR USE BY THE PARKS & RECREATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #06-34 and approves the purchase of one (1) New Holland Backhoe from Williams Tractor Company in the amount of $54,394.00 for use by the Parks & Recreation Division.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

Fayetteville
ARKANSAS

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

Equipment Committee Correspondence

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

FROM: David Bragg, Fleet Operations Supt

DATE: April 20, 2006

SUBJECT: Award of Equipment Bid

Bid #06-34 was opened on April 18, 2006 for one four wheel drive Loader Backhoe for use by Parks Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from A. Camp Equipment Company of Fayetteville does not meet specifications. Par. 3.9 g. requires 4,390 lbs. of dipper stick lift capacity at a height of 10 feet. This requirement was established in September 2003 in response to user divisions' requirement to lift various objects with the backhoe boom. The minimum capacities for boom lift and dipper stick lift were established based on review of weight of typical objects to be lifted and the capacity of backhoe models from five major manufacturers.

Literature submitted with the TEREX bid indicates a lift capacity as defined in Par. 3.9g of 2,932 lbs. vs. the specified 4,390 lbs. The bid specification states, "If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option". I met with the owner of A. Camp Equipment this morning, inspected a similar backhoe to the unit bid, discussed the apparent deficiency, and offered the opportunity to provide the specified manufacturer documentation. While claiming that the unit bid meets specifications, the specified documentation has not been provided.

The second lowest bid from Williams Tractor Company of Fayetteville meets all specifications. This is the updated current year model of seven backhoes purchased in 2005 for other divisions.

I recommend acceptance of the bid from Williams Tractor in the amount of $54,394.00.

This backhoe will replace unit 641, a 1998 Ford backhoe that has been dead lined due to a major transmission failure that is not economically repairable.

Funds are available for this purchase in Fleet Replacement Special Project 02076–Backhoe/Loaders.

Cc:
Gary Dumas

DISCUSSED IN COMMITTE
4/25/2006
APPROVED FOLLOWING WITHDRAWAL OF CONTEST BY A. CAMP EQUIP
PER CHAIRMAN REYNOLDS 4/28/06
DRB

BID: 06-34
DATE: 4/18/06
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 06-34, Four Wheel Drive Loader/Backhoe (Medium)

	BIDDER	Manufacturer	Model	Unit Price	Total
1	A. Camp Equipment	Terex	760B	$53,550.00	$53,550.00
2	H&E Equipment Services	Komatsu	WB140PS	$74,250.00	$74,250.00
3	J.A. Riggs Tractor				No Bid
4	Williams Tractor, Inc.	New Holland	B95	$54,394.00	$54,394.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P Vice
P. VICE PURCH MGR

Andrea Foren
WITNESS

4/19/06
DATE

City Of Fayetteville
(Not a Purchase Order)

Requisition No.:

Date: 4/28/2006

P.O Number:

Expected Delivery Date:

Vendor #: 11133

Vendor Name: WILLIAMS TRACTOR, INC

Mail Yes:__ No:_XX_

Address:

Fob Point:

Taxable Yes:_XX_ No:____

City:

State:

Zip Code:

Ship to code: 050

Divison Head Approval:

Quotes Attached Yes:_____ No:_____

Requester: BARBARA OLSEN

Requester's Employee #: 1940

Extension: 495

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2006 NEW HOLLAND B95 BACKHOE	1	EA	$54,394.00	$54,394.00	9700.1920.5802.00	02076.1		
2	PER BID #06-34		EA		$0.00				
3	TO BE UNIT 680, FIXED ASSET		EA		$0.00				
4	700680		EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: 54,394.00

Tax: EXEMPT

Total: 54,394.00

Approvals:

Mayor: ________________

Finance & Internal Services Director: ________________

Dispatch Manager: ________________

Department Director: ________________

Budget Manager: ________________

Utilities Manager: ________________

Purchasing Manager: ________________

IT Manager: ________________

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

16-May-06
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

A resolution awarding Bid #06-35 to Williams Tractor Co. of Fayetteville in the amount of $33,242 for the purchase of one Toolcat Utility Work Machine for use by Parks Division.

$33,242.00	$ 188,000.00	Tractors/Mowers
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ -	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02083	$ 188,000.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Previous Ordinance or Resolution # n/a
Original Contract Date: n/a
Original Contract Number: n/a

Department Director 4-27-06 Date

City Attorney 4/28/06 Date

4-28-06

Mayor 4/28/06 Date

Received in City Clerk's Office ENTERED 4/27/06

Received in Mayor's Office ENTERED 4/28/06

Comments:

Fayetteville
ARKANSAS

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

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent** DRB

Date: **April 27, 2006**

Subject: **Purchase of one Bobcat Toolcat for Parks Division**

RECOMMENDATION: That City Council approve the purchase of one New Holland Bobcat Toolcat (Utility Work Machine) for use by Parks Division.

BACKGROUND: Bid #06-35 was opened on April 18, 2006. One bid response was received. The lowest bid of $33,241.94 from Williams Tractor Co of Fayetteville meets all specifications. The Bobcat Toolcat is the only machine of its kind on the market today. Transportation Division has been using one for two years with good success and Parks staff has determined a need for a unit of this type to accomplish several tasks within their Division.

This Toolcat will replace unit 552, a 1995 Ford Utility Tractor that is no longer dependable for daily use and not nearly as job productive as the Toolcat.

I recommend acceptance of the bid from Williams Tractor in the amount of $33,241.94. Funds are available for this purchase in Fleet Replacement Project 02083 – Tractor/Mowers.

The purchase of this unit was approved by the Equipment Committee on April 25th, 2006.

RESOLUTION NO. ______

A RESOLUTION AWARDING BID #06-35 AND APPROVING THE PURCHASE OF ONE (1) TOOLCAT UTILITY WORK MACHINE FROM WILLIAMS TRACTOR COMPANY IN THE AMOUNT OF $33,242.00 FOR USE BY THE PARKS & RECREATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #06-35 and approves the purchase of one (1) Toolcat Utility Work Machine from Williams Tractor Company in the amount of $33,242.00 for use by the Parks & Recreation Division.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

Fayetteville
ARKANSAS

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

Equipment Committee Correspondence

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

FROM: **David Bragg, Fleet Operations Supt**

DATE: **April 18, 2006**

SUBJECT: **Award of Equipment Bid**

Bid #06-35 was opened on April 18, 2006 for one Utility Work Machine (Toolcat) for use by Parks Division. One bid response was received.

The lowest bid from Williams Tractor Company of Fayetteville meets all specifications. The Bobcat Toolcat the only machine of its kind on the market today. Transportation Division has been using one for two years with good success and Parks staff has determined a need for several tasks within their Division.

' recommend acceptance of the bid from Williams Tractor in the amount of $33,241.94.00.

This Toolcat will replace unit 552, a 1995 Ford utility tractor that is no longer dependable for daily use and not nearly as job productive as the Toolcat.

Funds are available for this purchase in Fleet Replacement Special Project 02083– Tractors/Mowers.

Cc:
Gary Dumas

APPROVED
4/25/06
2ORB

BID: 06-35
DATE: 4/18/06
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville ARKANSAS

Bid 06-35, Four Wheel Drive Utility Work Machine

	BIDDER	Manufacturer	Model	Unit Price	Total
1	H&E Equipment Services				No Bid
2	Williams Tractor, Inc.	Bobcat	5600 Toolcat	$33,241.94	$33,241.94

***NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.**

CERTIFIED: P Vice
P. VICE PURCH MGR

Andrea Foren
WITNESS

4/19/06
DATE

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	
Date:	4/27/2006
P.O Number:	
Expected Delivery Date:	
Vendor #:	11133
Vendor Name:	WILLIAMS TRACTOR, INC
Mail	Yes:__ No:_XX_
Address:	
Fob Point:	
Taxable	Yes:_XX_ No:____
City:	
State:	
Zip Code:	
Ship to code:	050
Divison Head Approval:	(signature)
Quotes Attached	Yes:_____ No:_____
Requester:	BARBARA OLSEN
Requester's Employee #:	1940
Extension:	495

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	BOBCAT 5600 TOOLCAT UTILITY	1	EA	$33,241.94	$33,241.94	9700.1920.5802.00	02083.1		
2	WORK MACHIINE, PER BID #06-35		EA		$0.00				
3	TO BE UNIT 9088, FIXED ASSET		EA		$0.00				
4	NUMBER #709088		EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: 33,241.94

Tax: EXEMPT

Total: 33,241.94

Approvals:

Mayor: ____________

Department Director: ____________

Purchasing Manager: ____________

Finance & Internal Services Director: ____________

Budget Manager: ____________

IT Manager: ____________

Dispatch Manager: ____________

Utilities Manager: ____________

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

16-May-06
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

A resolution awarding Bid #06-36 to Downing Sales and Service in the amount of $442,314 for the purchase of three recycle trucks for use by Solid Waste Division.

$442,314.00	$ 1,573,420.00	Sanitation Vehicles
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 823,285.00	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02082	$ 750,135.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Department Director — 4-27-06 Date

City Attorney — 4/28/06 Date

4-28-06

Mayor — 4/28/06 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 4/27/06

Received in Mayor's Office
ENTERED 4/28/06

Comments:

Fayetteville
ARKANSAS

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

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent** LKD

Date: **April 27, 2006**

Subject: **Purchase of three Recycle trucks**

RECOMMENDATION: That City Council approve the purchase of three Recycle Trucks for use by Solid Waste Division in the amount of $442,314.00.

BACKGROUND: Bid #06-36 was opened on April 18, 2006. Two bid responses were received. The lowest bid of $147,438 per unit from Downing Sales and Service meets all specifications. A bid tabulation sheet is attached.

These trucks are replacements for units 448, 449, and 450. These are 1998 Mack trucks that have reached their expected life and are no longer dependable for daily use. Additionally, these trucks have the first generation recycle body that is causing operator injury because the design requires the operator to push plastics upward to overhead bins. The new trucks have plastic compactors that load below shoulder height.

Funds are available for this purchase in Fleet Replacement Project 02082 – Sanitation Vehicles.

The purchase of these units was approved by the Equipment Committee on April 25th, 2006.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #06-36 AND APPROVING THE PURCHASE OF THREE (3) RECYCLING TRUCKS FROM DOWNING SALES AND SERVICE IN THE AMOUNT OF $442,314.00 FOR USE BY THE SOLID WASTE & RECYCLING DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #06-36 and approves the purchase of three (3) recycling trucks from Downing Sales and Service in the amount of $442,314.00 for use by the Solid Waste & Recycling Division.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

Fayetteville
ARKANSAS

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

Equipment Committee Correspondence

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

FROM: **David Bragg, Fleet Operations Supt**

DATE: **April 18, 2006**

SUBJECT: **Award of Equipment Bid**

Bid #06-36 was opened on April 18, 2006 for three recycle trucks for use by Solid Waste Division. Two bid responses were received.

The lowest bid of $147,438 per unit from Downing Sales and Service meets all specifications.

I recommend acceptance of the bid from Downing Sales and Service in the amount of $442,314.00.

Funds are available for this purchase in Fleet Replacement Special Project 02082 – Sanitation Vehicles.

These trucks are replacements for Units 448, 449, and 450. These are 1998 Mack trucks that have reached their expected life and are no longer dependable for daily use. Additionally, these trucks have the first generation recycle body that is causing operator injury because the design requires the operator to push plastics upward to overhead bins. The new trucks have plastic compactors that load below shoulder height.

Cc:
Gary Dumas

APPROVED
4/25/06

BID: 06-36
DATE: 4/18/06
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 06-36, Recycle Truck

	BIDDER	Manufacturer	Model	Unit Price	Total
1	**Downing Sales & Service, Inc.**				
	Item 1	Freightliner	M2	$62,722.00	$188,166.00
	Item 2	Kann Mfg. Corp.	Versa-Haul w/ Fayetteville Cust. options	$84,716.00	$254,148.00
	Total Bid Price				**$442,314.00**
2	**Downing Sales & Service, Inc.**				
	Item 1	Sterling	Acterra	$63,570.00	$190,710.00
	Item 2	Kann Mfg. Corp.	Versa-Haul w/ Fayetteville Cust. Items	$84,716.00	$254,148.00
	Total Bid Price				**$444,858.00**

***NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.**

CERTIFIED: P Vice
P. VICE PURCH MGR

Andrea Foren
WITNESS

4/19/06
DATE

City Of Fayetteville
(Not a Purchase Order)

Requisition No.:
Date: 4/27/2006
P.O Number:
Expected Delivery Date:

Vendor #: 3842
Vendor Name: DOWNING SALES & SERVICE
Mail Yes:__ No:_XX_
Address:
Fob Point:
Taxable Yes:_XX_ No:____
City:
State:
Zip Code:
Ship to code: 050
Divison Head Approval: 2ehB
Quotes Attached Yes:____ No:____
Requester: BARBARA OLSEN
Requester's Employee #: 1940
Extension: 495

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	FREIGHTLINER M2 TRUCK WITH	3	EA	$147,438.00	$442,314.00	9700.1920.5802.00	02082.1		
2	KANN MFG CORP VERSA HAUL		EA		$0.00				
3	RECYCLE BODY PER SPECS IN		EA		$0.00				
4	BID #06-36.		EA		$0.00				
5	TO BE UNITS: 487, 488 AND 489		EA		$0.00				
6	AND FIXED ASSET #S 700487,		EA		$0.00				
7	700488 AND 700489.		EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: 442,314.00
Tax: EXEMPT
Total: 442,314.00

Approvals:

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

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

16-May-06
City Council Meeting Date

Submitted By	Division	Department
Stephen Davis	FIS Director	Finance & Internal Services

Action Required:

Action Required: Acceptance of the proposal from HDR/EES to conduct a comprehensive water and sewer rate study, authorize the Mayor to execute the contract and approval of a budget adjustment in the amount of $13,344.

$98,490.00	$ 85,146.00	Utility Rate Review and Analysis
Cost of this request	Category/Project Budget	Program Category / Project Name
5400-1840-5314-00		Meter Capital
Account Number	Funds Used to Date	Program / Project Category Name
06010	$ 85,146.00	Water & Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item: XX

Budget Adjustment Attached: XX

Department Director: [signature] Date: 4-28-06

City Attorney: [signature] Date: 5/1/06

Finance and Internal Service Director: [signature] Date: 4-28-06

Mayor: [signature] Date: 5/1/06

Previous Ordinance or Resolution #: ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office: ENTERED 4/28/06 LB

Received in Mayor's Office: ENTERED 5/1/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, FIS Director

DATE: April 28, 2006

SUBJECT: Water & Sewer Rate Study – 2006

Recommendation

Staff recommends Fayetteville City Council approve the contract with HDR/EES to conduct a cost of service water and sewer rate study and approve a budget adjustment in the amount of $13,344.

Background/Discussion

Staff is proposing the City of Fayetteville contract for a comprehensive water and sewer cost of services rate study in 2006. The purpose for the rate study this year to develop a cost-of-services rate study based on the predicted final cost of the Wastewater System Improvements Project (WSIP) as well as more current operations and maintenance costs and the predicted debt service for the bonds support by water and sewer utility rates.

Because the City is using ANRC funding for portions of the WSIP Fayetteville must submit the rate study to Arkansas Natural Resources Commission staff for review and comment before any rates can be adjusted. Because of the highly technical nature of the ANRC staff review it is recommended that outside expertise be engaged.

HDR/ees was selected to provide these services through a professional selection process conducted in early 2005. The selection committee included City staff and representatives from the University of Arkansas, the cities of Farmington, Greenland, Goshen and Elkins and the Fayetteville Chamber of Commerce (representing industrial customers).

The initial scope of services provided was the required Water & Sewer System Operations Study. That scope of services was performed on time and within budget. HDR/ees has been tasked with subsequent work and each effort has been performed professionally and as agreed.

Because of the oversight from ANRC and our neighboring cities, Staff requested this rate proposal.

Budget Impact

The rate study is expected to take approximately 36 weeks and predicted to cost approximately $98,000. The City has $75,000 budgeted for this effort. Approximately $10,000 remains from the budget for the 2003 Rate Study that can be applied to the 2006 rate study. If the remaining moneys from the 2003 Rate Study are applied then an additional $13,000± would be needed to perform this cost of service study for both utilities.

This item was provided to the Fayetteville Sewer Committee on April 28 for their review and input. Because of the timing for agendas it was not possible to obtain the Sewer Committee review prior to the agenda deadline.

RESOLUTION NO. ______

A RESOLUTION APPROVING A PROPOSAL IN THE AMOUNT OF $98,490.00 FROM HDR/EES TO CONDUCT A COMPREHENSIVE WATER AND SEWER RATE STUDY; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $13,344.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a proposal in the amount of $98,490.00 from HDR/EES to conduct a comprehensive water and sewer rate study.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of $13,344.00.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Operations Division: Meter Operations Program: Meter Capital	Date Requested	Adjustment Number
2006		5/16/2006	

Project or Item Added/Increased:	Project or Item Deleted/Reduced:
$13,344 is requested in the Professional Services account of the Utility Rate Review and Analysis capital project.	$10,236 is proposed from Professional Services accounts in the Water and Sewer Rate/Operations Study capital project. None. $3,108 from the use of fund balance in the Water & Sewer Fund is proposed.

Justification of this Increase:	Justification of this Decrease:
Funding is for on-going services to determine preliminary predicted rates for Fayetteville-Farmington based on the revised cost of the Wastewater Systems Improvement Project.	Funds are being moved from the completed rate study project to the study currently in process. Sufficient funding remains to comply with City policy.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5400	1840	5314	00	13,344	06010	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5400	1810	5314	00	6,610	02064	1
Professional services	5400	1840	5314	00	3,626	02064	1
Use of fund balance	5400	0940	4999	99	3,108		

Approval Signatures

Stephen Davis 4-28-06
Requested By — Date

Budget Manager — Date

Department Director — Date

Stephen Davis 4-28-06
Finance & Internal Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger — Initial — Date

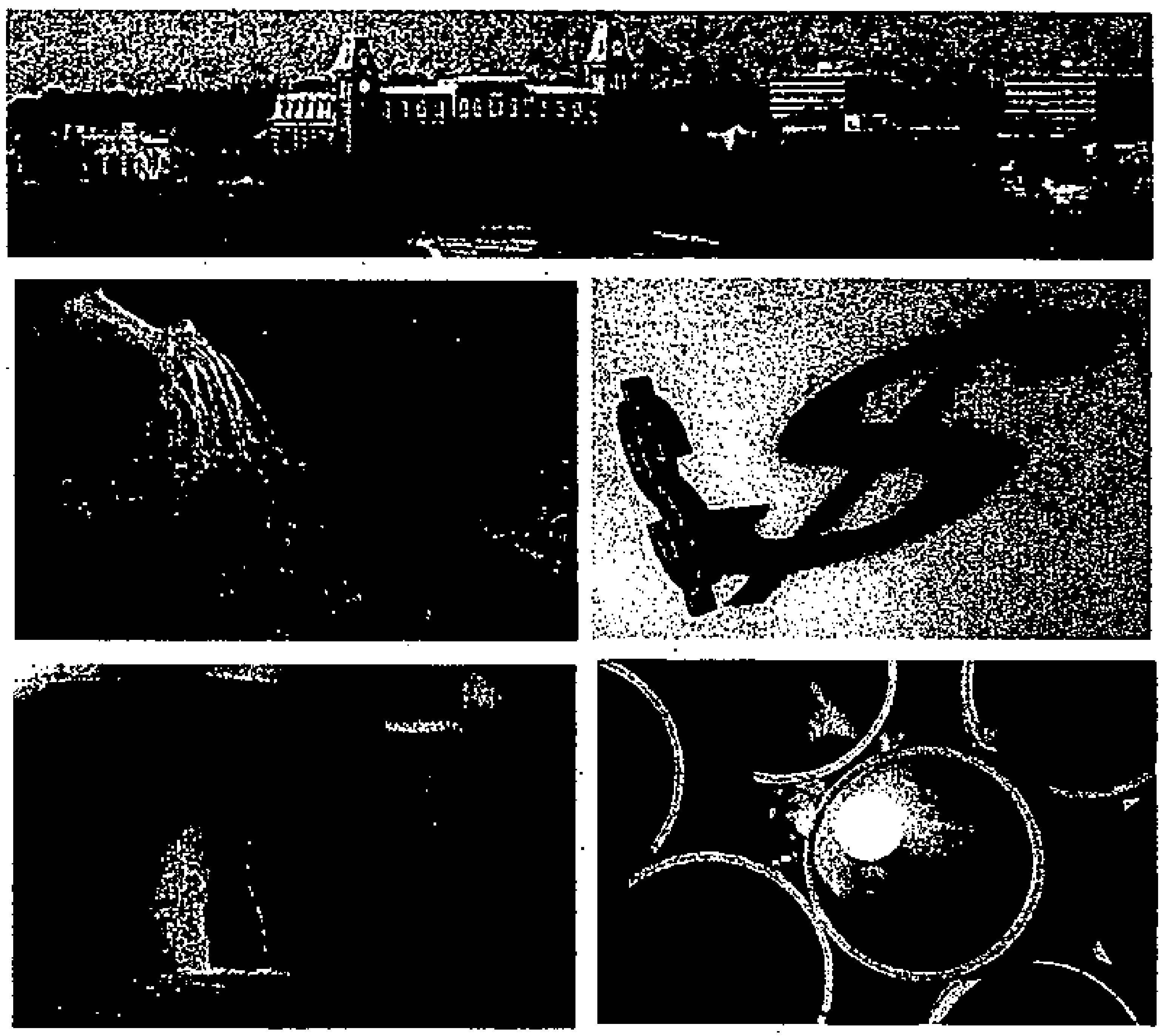
Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

City of Fayetteville

Proposal to Conduct a Comprehensive Water and Sewer Rate Study

April 2006



Prepared by
HDR Engineering, Inc.

HDR

ONE COMPANY | Many Solutions

April 23, 2006

Mr. Steve Davis
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

Subject: Proposal to Conduct a Comprehensive Water and Sewer Rate Study

Dear Mr. Davis:

The objective of this study is to ensure that each of the utilities has adequate funds to operate properly, and the rates that are fair, equitable, and cost-based. HDR Engineering, Inc. (HDR) is highly qualified to perform this work for the City based upon our technical skills and experience in this specialized area of expertise. We also bring to the City a set of attributes that sets us apart, including the following:

- HDR is nationally recognized for its expertise in rate studies. We have successfully performed rate studies for utilities around the U.S.
- HDR has worked extensively with the City over the last year to help the City negotiate agreements with the Cities of Elkins and Farmington. Our knowledge of the technical analysis used for those negotiations feed directly into this study.
- HDR brings to the City direct experience in working with thousands of water utilities across the U.S. Our experience and direct access to these utilities is invaluable when reviewing trends, industry practices, benchmarking and best practices.

Individual Project Team Member Experience:

- Mr. Tom Gould, Project Manager for the study, is the current instructor for the American Water Works Association (AWWA) Financial Management seminar. In addition, he is a contributing author to the AWWA M1 Manual, *Principles of Water Rates, Fees and Charges*, and the M34 Manual, *Water Rate Structures and Pricing*. HDR's strength in teaching and educating will make our assistance extremely valuable to the City's management team and the City Council.
- Tom Gould has successfully worked with the City in the past on water and sewer rate issues. Tom was the project manager for the recently completed operations study and rate audit study.

HDR Engineering, Inc.

500 108th Avenue NE
Suite 1200
Bellevue, WA 98004-5549

Phone: (425) 450-6200
Fax: (425) 453-7107
www.hdrinc.com

The Success of Similar Projects:

- HDR specializes in working with public utilities such as the City. We provide our financial planning and rate consulting services to utilities of all sizes, but some of our more prominent financial/rate clients are Denver Water, Seattle Public Utilities, City of Norfolk, and the Anchorage Water and Wastewater Utilities.

Methodology and Approach:

- By virtue of our recent work with the City on rate issues, along with conducting hundreds of studies over the years, HDR understands the most comprehensive, efficient and effective approaches to reviewing a utility's rates. Each scope of service and methodology is tailored to meet the specific needs of our clients and their unique system characteristics.
- HDR is very effective in communicating and working with policymakers on complex management, financial and rate issues. HDR views communication and public presentations as one of the most critical components to the overall success of the study.

In developing our proposal, HDR has provided a scope of services to conduct a comprehensive water and sewer rate study. While a great deal of the City's emphasis is currently placed on resolving the sewer financial issues, HDR also believes that it is prudent for the City to conduct a comprehensive water rate study at the same time. By doing so, the City will have a financial plan for both utilities that may be combined to provided a combined utility perspective. In addition, by conducting a water rate study at the same time, it would close off any issues or concerns regarding the prior water rate study. HDR has developed a fee proposal that segregates the fees for the water and sewer study to provide the City with flexibility in its final decision on the scope of services to be performed.

We look forward to discussing our proposal with you. Should you have any questions about our approach to this project or any information contained herein, please call me directly (425) 450-6386. Thank you again for the opportunity to propose on this interesting project.

Sincerely yours,
HDR ENGINEERING, INC.

Tom Gould

Thomas E. Gould
Vice President / National Technical Director of Finance and Rates

Contents

Section 1
Overview of the Proposed Study

1.1 Introduction

HDR Engineering, Inc. (HDR) proposes to provide a comprehensive water and sewer rate study for the City of Fayetteville (City). A comprehensive water and sewer rate study provides the basis for evaluating each utility's financial requirements, while establishing rates that are equitable and cost-based. This section of the proposal will provide a brief overview of our understanding of the City's goals and objectives for this study, along with our proposed approach to the services requested by the City. Our proposal is based upon our discussion with the City regarding the goals and objectives for this project.

"A comprehensive water and sewer rate study provides the basis for evaluating each utility's financial requirements, while establishing rates that are equitable and cost-based."

1.2 Goals and Objectives for the Study

Determining the City's goals and objectives for the study is an important starting point. By gaining an understanding of these goals and objectives, the scope of services can be tailored to meet the City's needs. We believe the City's goals and objectives for this study are as follows:

- Review the City's water and sewer rates utilizing "generally accepted" rate making methodologies to assure that the City's rates accurately reflect the cost of providing the service. The water and sewer rate methodology selected must also conform to all wholesale contractual requirements.
- For each utility, develop a revenue requirement analysis that ensures prudent funding levels for O&M and capital infrastructure. In the context of developing the revenue requirements assure that the City follows its written and adopted financial and rate setting policies and utilizes prudent financial planning criteria.
- Develop a cost allocation methodology that fairly allocates the cost of providing water and sewer services. The cost of service methodology, particularly for the sewer utility, must integrate and conform to recent agreements concerning methodology in establishing rates for the City of Elkins and potentially the City of Farmington.
- Review the City's current water and sewer rate designs/structures, and provide, as appropriate, alternative rate designs that are contemporary, cost based, defensible, and meet the specific rate design objectives of the City.
- Provide an effective written and oral presentation of the results of this study. Provide "as-needed" support to outside State and financial entities to support the City's rate proposal and financial plan.
- Develop a rate model that is flexible and easy to use and update.
- Work closely with the City management and staff, and as a team, maximize the value of this study to the City.

The above list is our perception of the City's goals and objectives at this time. As the project unfolds, the City can expand upon this list to assist us in better understanding your needs. Given these goals and objectives, a scope of services has been developed to meet the City's needs.

1.3 Summary of the Proposed Scope of Work

We have developed a brief summary of our scope of work. Our scope of work is designed to meet the needs of the City. We believe our proposed approach is the most cost-effective and time-efficient. In summary form, the proposed tasks are as follows:

TASK 1—INITIAL PROJECT MEETING – Bring the HDR project team, City management, and staff together, at the start of the project, to assure that all parties have a mutual understanding of the goals, objectives, issues, and concerns related to the study.

TASK 2—DATA COLLECTION - Review and assess the City's existing water and sewer data, and provide a written data request detailing the data required to complete the study.

TASK 3—REVIEW OF EXISTING FINANCIAL/RATE SETTING POLICIES, PHILOSOPHIES, AND PRACTICES – As a part of this task, HDR will review the existing financial/rate policies and practices of the City to ensure conformance with those policies. At the same time, HDR will propose and recommend, as appropriate, additional financial/rate policies for possible adoption by the City. All analyses developed as a part of this study will conform to the City's existing financial/rate policies, or will be based upon "generally accepted" financial/rate practices of the water and sewer utility industry.

TASK 4—REVENUE REQUIREMENT ANALYSIS – Using a generally-accepted rate setting methodology, develop the City's water and sewer revenue requirements for a projected five-year period. The analysis should utilize the City's capital infrastructure planning documents (e.g. Capital Plan/Master Plan), while ensuring adequate funds for operating and capital needs. The revenue requirement analysis will establish the cost-based 'level' of revenue to be collected from rates and, if necessary, a plan to transition rates to cost-based levels.

TASK 5—COST OF SERVICE ANALYSIS – Develop an average embedded cost of service study to equitably allocate the revenue requirements of the water and sewer utilities to the customers served by the City. The cost of service methodology must conform to prior discussions and agreements between the City and the outside City and wholesale customers.

TASK 6—RATE DESIGN ANALYSIS – Utilize the cost information developed as a part of the previous tasks and develop water and sewer rate design options for possible adoption by the City. Review any alternative rate designs that meet the City's rate design goals and objectives (e.g. conservation, revenue stability, etc.).

TASK 7—WORK PAPERS AND WRITTEN REPORT OF FINDINGS AND RECOMMENDATIONS – Provide a written report to summarize the findings, conclusions, and recommendations of the water and sewer rate study. In addition, provide a copy of all workpapers associated with the project to aid in future updating of the study by City staff.

TASK 8—MEETINGS/WORKSHOPS/PUBLIC PRESENTATIONS – Provide effective public presentations and workshops of the findings, results, and recommendations of the study. This task will include support in any discussions with outside State Agencies or financial/lending institutions.

TASK 9—COMPUTER MODELS – Provide a copy of the computer spreadsheet models used to develop the City's study.

Task 10—On-Going "As Needed" Support – Provide on-going "as needed" support to finalize any discussions and negotiations between the City and their outside City and wholesale customers.

1.4 Summary

HDR Engineering, Inc. has developed a scope of work for the City that is comprehensive and responds directly to the indicated need. We are confident in our ability to provide a quality work product to the City and to work effectively and efficiently in ensuring the best interest of the City and its customers.

Section 2
Proposed Scope of Services

2.1 Introduction

HDR Engineering, Inc. (HDR) proposes to provide a comprehensive water and sewer rate study for the Fayetteville Water and Sewer City (City). To accomplish this, HDR will utilize "generally accepted" rate setting methodologies and tailor those methodologies to the specific circumstances of the City. This section of the proposal will provide a brief overview of the general approach or methodology to be used for this study.

2.2 Overview of a Comprehensive Rate Study

A comprehensive rate study is generally comprised of three interrelated analyses: (1) the development of revenue requirements to determine adequate funding levels, (2) a cost of service study designed to understand the cost differences associated with serving various types of customers, and (3) a rate design analysis that establishes a cost-basis for setting rates. Provided below in Figure 2-1 is a brief overview of the rate study process.

Figure 2-1
Overview of the Comprehensive Rate Study Process

Revenue Requirement Analysis	*Compares the sources of funds (revenues) to the expenses of the utility to determine the overall adjustment to rates.*
↓ Cost of Service Analysis	*Allocates the total revenue requirements to the various customer classes of service in a "fair and equitable" manner.*
↓ Rate Design Analysis	*Design rates to yield the revenue requirements and meet the goals and objectives of the City.*

For each utility, the above framework or methodology will be utilized to analyze the rates. While Figure 2-1 provides an overview of the typical components of a comprehensive rate study, an important aspect of this study is incorporating and "tailoring" those analytical elements into an overall scope of services that will provide the work products being requested by the City. The scope of work developed in the following section will discuss in greater detail how this general methodology is applied to the City's unique characteristics and circumstances to produce equitable and cost-based rates.

2.3 Detailed Description of Proposed Scope of Services

HDR has attempted to develop a detailed scope of services that meets the specific goals and objectives of the City. More importantly, the scope of services outlined below, provides the City with a better understanding of our depth of knowledge and skills in conducting comprehensive rate studies.

In developing the proposed scope of services, two items should be noted. First, it is assumed that each of the analyses (water and sewer) will be conducted simultaneously. The second item to note is that the general approach used to conduct the water and sewer analyses are assumed to be identical, except where noted.

Task 1—Initial Project (Kick-Off) Meeting

Task Objective: Bring the HDR project team, City management and staff together, at the start of the project, to assure that all parties have a mutual understanding of the goals, objectives, issues and concerns related to the study.

The initial project (kick-off) meeting is important to the overall success of this engagement since it forms the foundation for the rate study process. This meeting allows both parties to discuss the overall goals and objectives for this study, while at the same time discussing any issues and concerns that either party may have. It is proposed that the initial project meeting be approximately 1 – 2 hours in length. At the same time, this meeting may be coordinated with a meeting with the City's Sewer Commission to determine any issues or concerns that group may have, prior to beginning any analytical work.

Expected City Staff Support for Task 1: For this task, the City will be expected to:

- Have their key management/project team members attend a 1 – 2 hour planning meeting.

Deliverables as a Result of Task 1—Initial Kick-off Meeting. From the work accomplished above, the deliverables for this optional task will be as follows:

- Identification of objectives, issues and concerns by both parties.
- Face-to-face meeting to get the study off to a positive start.

Task 2—Data Collection

Task Objective: Review and assess the City's existing water and sewer data, and provide a written data request detailing the data required to complete the study.

The initial written data request details the data and information required to conduct the study. HDR will provide a written data request to the City prior to the initial kick-off meeting so that it can be discussed at the meeting and any problem areas quickly resolved. The data and information requested for this study should be, for the most part, readily available information (e.g. financial, statistical, customer, etc.). The key issue for data collection purposes may be the level of detail that is readily available and needed for the study. It is important to keep in mind that a cost of service study requires data and information that is more detailed than the data typically reported for annual

> ***"The data and information requested for this study should be, for the most part, readily available information (e.g. financial, statistical, customer, etc.)."***

financial statement purposes. For those areas where the data is not readily available, or will require significant labor and expense on the City's part to provide, HDR and the City will determine the "sensitivity" or "importance" of the data required and if alternative data sources are available. As with any study, it is imperative that the City provide a timely response for the data requested.

Expected City Staff Support for Task 2: For this task, the City will be expected to:

- Gather the data requested in the written data request provided by HDR. (Note: typically requires 20 – 40 hours of total staff time to provide.)

Deliverables as a Result of Task 2—Data Collection. From the work accomplished above, the deliverables for this task will be as follows:

- An initial written data request to the City.
- Identification of any data constraints.

Task 3—Review of Existing Financial/Rate Setting Policies, Philosophies, and Practices

Task Objective: Review the City's existing written financial/rate setting policies, and review any other philosophies or practices in use by the City and recommend additional policies/practices as appropriate.

The City currently has an adopted set of written financial/rate setting policies. As a part of this task, HDR will review these policies to assure that the study developed conforms to these existing policies. At the same time, HDR will propose and recommend, as appropriate, additional financial/rate policies for possible adoption by the City. All analyses developed as a part of this study will conform to the City's existing financial/rate policies, or will be based upon "generally accepted" financial/rate practices of the water and sewer utility industry.

"The City currently has an adopted set of written financial/rate setting policies."

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Gather existing written policies and provide to HDR. Discuss any existing financial/rate philosophies or practices.
- As needed, provide clarification of existing policies.
- As needed, assist HDR is developing recommended policies for possible adoption.

Deliverables as a Result of Task 3—Review of Existing Financial/Rate Setting Policies, Philosophies and Practices. From the work accomplished above, the deliverables for this task will be as follows:

- Review of the existing financial/rate setting policies and practices of the City.
- Develop additional policies/practices to help provide financial stability to the City and aid in simplifying the financial planning and rate setting process over the long-term.

Task 4—Revenue Requirement Analysis

Task Objective: Using a "generally-accepted" rate setting methodology, develop the City's water and sewer revenue requirements for a projected five-year period. The analysis should utilize the City's capital infrastructure planning documents (e.g. Capital Plan/Master Plan), while ensuring adequate funds for operating and capital needs. The revenue requirement analysis will establish the cost-based 'level' of revenue to be collected from rates and, if necessary, a plan to transition rates to cost-based levels.

The development of the water and sewer revenue requirement analyses is the first major analytical portion of the comprehensive rate study process. This portion of the study entails reviewing, for each utility, the various sources of funds (revenues) and comparing them to the applications of funds (expenses) for the utility. This task considers the prudent and proper funding for O&M and capital expenditures for each utility, and determines the need for any rate adjustments over the time period selected. A more detailed discussion of the various steps involved in developing the City's revenue requirements for each utility is provided below.

STEP 1 – SELECTION OF A TEST PERIOD – The first step in the development of the revenue requirements is the selection of a "test period". A "test period" refers to a time frame of reference for the accumulation of revenues, expenses and consumption data. In this case, a five-year projected time period is proposed (e.g. 2007 – 2011). By reviewing costs over this extended time frame, the City can determine when major rate adjustments may be required and potentially take steps today to help minimize future impacts (e.g. rate adjustment transition, accumulation of capital reserves, etc.).

> ***"This task considers the prudent and proper funding of O&M and capital expenditures for each utility . . ."***

STEP 2 – METHOD OF ACCUMULATING COSTS – Once the "test period" has been determined, the next decision is to determine the basis or method of accumulating costs. There are two choices for accumulating costs for revenue requirement/financial planning purposes; the "cash" or "utility/accrual" basis. Table 2-1 provides a simple comparison between these two "generally accepted" methodologies.

Table 2-1
Cash vs. Utility Basis Comparison

Utility/Accrual Basis	Cash Basis
+ O&M Expense	+ O&M Expense
+ Taxes or Transfer Payments	+ Taxes or Transfer Payments
+ Annual Depreciation Expense	+ Capital Projects Financed with Rate Revenues (≥ Deprec. Exp.)
+ Return on Rate Base (Investment)	+ Debt Service (P+I)
= Revenue Requirement	= Revenue Requirement

For determining revenue requirements, the City has historically used the "cash basis" approach. The "cash" basis approach is most commonly used by public utilities for determining and setting their revenue requirements since this closely follows their budgeting process. This is the methodology HDR would recommend to establish revenue requirements for the City.

STEP 3 – ACCUMULATION OF REVENUES AND EXPENSES – Once the test period and method of accumulating costs has been determined, HDR in conjunction with City management and staff will develop the test period revenue requirements for each utility.

Revenue requirements are composed of two major types of costs; operational and capital expenses. The operational costs are generally projected from historical or budgeted costs, using assumed escalation factors, and adjusted for any known changes in operations (e.g. additional personnel, growth/expansion, etc.) While the projection of the operational costs is fairly straightforward, the capital cost projections are generally the focus of the analysis, and require more thought and planning.

Within this study, the starting point for projecting capital costs (expenditures) will be the City's capital improvement plans for each utility, or any other relevant capital planning and capital budgeting documents. For the sewer utility, this will include the most recent cost projections for the new wastewater treatment plant.

In the financial planning process, consideration must be given to maximizing the capital improvements (expenditures) for the system, while minimizing rates to its customers. This is accomplished in a variety of ways. However, the most important aspect of this discussion is that there are multiple methods of financing capital expenditures, and it is through this process that rates can be minimized. Table 2-2 provides an overview of the general approach that is used to develop a capital expense plan for the revenue requirement analysis.

Table 2-2
Overview of the General Methodology For Reviewing the Financing of Capital Project Expenses

\+ **Total Capital Projects –**
- ✓ Replacement and Refurbishment Capital Projects
- ✓ Legally Mandated Capital Projects
- ✓ System Growth and Expansion Capital Projects

– **Outside Funding Sources –**
- ✓ Capital Reserves
- ✓ Grants
- ✓ Low-Interest Loans (State and/or Federal)
- ✓ Connection Fees/Contributed Capital
- ✓ Short-Term Borrowing
- ✓ Borrowed Funds/Long Term Debt (e.g. Revenue Bond)

= **Capital Projects Financed with Rate Revenues (≥ Deprec. Exp.)**

The basic framework shown above is developed on a year-by-year basis for each of the projected five (5) years of the water and sewer revenue requirement analysis. In summary form, the general approach is to list all water and sewer capital projects in each year, and then determine the various outside funding sources for each of the projects. These outside funding sources may be low-interest loans, grants, customer capital contributions, system development charges, etc. The balance of projects not funded by the available sources of funds must be financed from a combination of long-term debt and rates. It is the balancing of the use of long-term debt to the impact upon rates, which is critical to the analysis.

> *"... consideration must be given to maximizing the capital improvements (expenditures) for the system, while at the same time, minimizing rates to its customers."*

In balancing the use of debt to equity (rate) financing of capital projects, a number of financial planning aspects are taken into account. First, the utility's debt service coverage ratio is an important financial measure or indication of the utility's ability to repay debt. The strength of the debt service coverage ratio is a direct function of the amount of capital projects that are financed from rate revenues. At a minimum, we assume that a utility should fund an amount equal to or greater than the utility's annual depreciation expense for renewal and replacement capital projects. By following this simple financial rule, the utility is not only assured of a strong debt service coverage ratio, but at the same time, it assures that existing plant in service will be maintained at acceptable service levels with the need for minimal long-term debt financing. However, at the same time, by properly funding for this component of the capital projects, it should provide the utility with greater flexibility in its ability to borrow for capital projects.

An important use of funds to help minimize rates over time is system development charges (SDCs). System development charges can be used to off-set the cost of growth-related capital infrastructure or growth-related debt service. Given the magnitude of the City's capital infrastructure plans, along with growth on Fayetteville's water and sewer systems, it will be critical to maximize the effectiveness of these funds to minimize rates to all of the City's customers. However, the challenge in using these funds is that they are growth dependent and not a reliable source of funds. Therefore, this risk must be balanced against the methods that may be used to minimize rates over time.

In summary, given a better understanding of the overall magnitude of the needed capital projects, a final financing plan can be developed which meets the City's goals and objectives for each utility, while attempting to minimize rates and costs over time.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Provide "as needed" assistance to explain the City's data and information as it relates to developing the revenue requirements.
- Provide "as needed" data refinements or additional data needs as determined during the process of developing the revenue requirements.
- Attend a one-half day project meeting to review the draft revenue requirement analysis.

Deliverables as a Result of Task 4 – Development of the Revenue Requirement Analysis. From the work accomplished above, the deliverables for this task will be as follows:

- A projected water and sewer revenue requirement analysis for a projected five-year period that considers the necessary operating and capital needs of each utility.
- A capital financing plan within the revenue requirement analysis, utilizing the City's comprehensive plans or capital budget, which attempts to maximize capital expenditures, while minimizing the impacts to customers over time.
- If needed, a transition plan to "phase in" any needed rate adjustments.

- Recommendations regarding key financial indicators (debt service coverage, capital replacement, reserve levels, etc.).

Task 5—Cost of Service Analysis

Task Objective: Develop an average embedded cost of service study to equitably allocate the revenue requirements of the water and sewer systems to the customers served by the City. The cost of service methodology must conform to prior discussions and agreements between the City and their outside City and wholesale customers.

Given the results of the revenue requirements, the City's water and sewer costs will be allocated to the various customer classes of service using an average embedded cost of service methodology. In simplified terms, a cost of service study attempts to equitably allocate the revenue requirements of each utility between the various customer classes of service (e.g. residential, commercial, wholesale, etc.). A brief discussion of the major steps associated with a water, and sewer cost of service analysis is provided below.

STEP 1 – SELECTION OF THE METHODOLOGY – Similar to the development of the revenue requirements, the cost of service may also use the "cash basis" or the "utility/accrual" basis for establishing the cost of service. In the case of the City, the "utility/accrual" basis methodology is specified under the existing wholesale contracts. Given that, the cost of service will follow the historical methodology which was the "utility/accrual" basis. Under this methodology, the "cash basis" revenue requirements are converted to the "utility/accrual" basis and an appropriate rate of return is earned from each customer class of service.

> ***"In simplified terms, a cost of service study attempts to equitably allocate the revenue requirements between the various customer classes of service"***

STEP 2 – SELECTION OF TEST PERIOD – The first step of a cost of service is to select a time period for the allocation of costs. This is similar to the revenue requirement time period selection process noted above. A cost of service analysis typically reviews a 1 to 2 year time period, or the period over which water and sewer rates will ultimately be set. In the City's case, allocating the year 2007 revenue requirements for each utility for cost of service purposes would appear to be appropriate. The selection of this test period is subject to change depending upon the timing of any financing and needed adjustments as shown in the revenue requirements.

STEP3 – FUNCTIONALIZATION AND CLASSIFICATION OF EXPENSES – The next step in the cost of service analysis is to functionalize the data. Functionalization refers to the arrangement of cost data into its basic cost categories (e.g. for the water utility, source of supply/production, treatment, transmission, distribution, etc.). This task is simplified greatly through the City's use of a uniform system of accounts. Given functionalized costs, the costs are then classified to their various cost components. For the water utility, classification involves determining whether each specific cost or account item was incurred to meet a consumer's base, extra-capacity, fire protection or customer related need. In contrast, for the sewer utility, classification involves determining whether each specific cost or account item was incurred to meet a consumer's volume, strength or customer-related need. While the basic cost components noted above for each utility are the cornerstone to the analysis, they are by no means the only cost components to be utilized for each of the studies. A thorough review of the various types of costs that the City incurs for each utility will be undertaken and specific cost classifiers developed. Classification will be based upon generally accepted cost of service techniques.

The City's prior cost of service studies provide a starting foundation for the cost of service analysis, but HDR will independently establish the methodology given the recent discussions with the outside City and wholesale customers. The prior methodology no longer reflects the current relationships between the parties and must be modified.

STEP 4 – DETERMINATION OF CLASSES OF SERVICE – Development of the cost of service for each utility begins with determining the classes of service that will be used for purposes of establishing cost allocations and rates. The process of establishing classes of service is to group customers into homogeneous groups. That is, customers with similar usage and/or facility requirements.

HDR will first discuss this issue with the City to determine the City's overall objectives. Given that understanding, HDR will then review the data and information that is available for each utility on the various customer classes of service to determine final classes of service for cost allocation purposes. These will be based upon grouping customers with similar facility requirements and usage patterns for each customer group (e.g. residential, commercial, wholesale, etc.). HDR expects the customer classes of service to be similar to the past cost of service analysis conducted for the City.

STEP 5 – ALLOCATION OF EXPENSES – The next analytical process involved in each of the cost of service analyses is the allocation of the classified plant in service and expenses to each of the customer classes of service. Once the classes of service have been determined, the process of developing allocation factors is undertaken. In developing the allocation factors, HDR will develop factors that are "fair and equitable" to all customers, and rely upon City-specific data where available. One of the major challenges of this study will be in developing the sewer volume allocation factor. In the City's prior study, the volume used for the City of Elkins was disputed due to metering issues. Since that time, the City believes that the metering issues have been resolved and a method established to test the reasonableness of the metered information for Elkins.

STEP 6 – SUMMARY OF THE COST OF SERVICE – Given the development of all the allocation factors, the final task allocates the expenses to each class of service. From this process, a summary page of the cost of service study for each utility is provided. The summary page for the cost of service study compares the difference between the current level of rate revenues received from each class of service, and the allocated cost of service for each class.

"The summary page for the difference between the current level of rate revenues received from each class of service, and the allocated cost of service for each class."

The cost of service will also provide average unit costs, or cost-based water and sewer rates, which are important to the development of final rate designs. Average unit costs provide the City with an understanding of the cost/rate relationship between fixed and variable costs. In summary, the development of average unit costs will provide "cost of service" based water and sewer rates for all classes of service for the City.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Attend a half-day project meeting to review the findings and results of the cost of service analyses for each utility.
- Provide any "as needed" data refinements or additional data needs as determined during the process of developing the cost of service analysis

Deliverables as a Result of Task 5 – Cost of Service Analysis. From the work accomplished above, the deliverables for this task will be as follows:

- Review of the current customer classes of service for the water and sewer utilities and determine any revisions for cost allocation purposes.
- A "fair and equitable" allocation of the revenue requirements to the various classes of service for the City's water and sewer systems, that reflects the current agreements between the City and its customers.
- A summary of the average unit costs (cost-based rates) for the various customer classes of service for the water and sewer utilities.

Task 6—Rate Design Analysis

Task Objective: Utilize the cost information developed as a part of the previous tasks and develop water and sewer rate design options for possible adoption by the City. Review any alternative rate designs that meet the City's rate design goals and objectives (e.g. conservation, revenue stability, etc.).

A starting point for the water and sewer rate design process is understanding the rate design goals and objectives the City is striving for in this study. These objectives may include ease of administration, simplicity, revenue stability, efficient use, etc. Understanding the City's rate design objectives will assist HDR in the development of any needed water and sewer rate design alternatives.

In designing the water and sewer rate options for the City, the cost of service information and average unit cost information for each utility will be utilized as a starting point. As a part of this task, the City's present rate designs for each utility will be reviewed to ensure that they conform to contemporary rate-setting goals and objectives.

HDR will review the rate objectives of the City and provide rate alternatives for each utility that are designed to meet those objectives. For each rate design developed, a bill comparison and graph will be provided that shows a comparison between the present bill and the proposed bill at various levels of usage. Bill comparisons are useful in assessing the potential impacts to a wide variety of customers. A comparison of neighboring water and sewer utilities will also be provided for the proposed rate designs.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Discuss with HDR the City's rate design goals and objectives
- Review rate design alternatives for appropriateness

Deliverables as a Result of Task 6 – Rate Design Analysis. From the work accomplished above, the deliverables for this task will be as follows:

- Review of the City's current water and sewer rates and development of various rate design alternatives.
- Bill comparisons and graphs for the rate design alternatives developed.

Task 7—Work Papers and Written Report of Findings and Recommendations

Task Objective: Provide a written report to summarize the findings, conclusions, and recommendations of the water and sewer rate study. In addition, provide a copy of all workpapers associated with the project to aid in future updating of the study by City staff.

Upon completion of the rate analysis, HDR will develop a draft written report of the rate study. Given the financial issues associated with the sewer utility, it is proposed that two separate and distinct reports be developed for the water and sewer rate study. This will allow the City to discuss with outside parties the findings and results of the sewer rate study, without any confusion concerning the water rate study assumptions, findings and conclusions.

The written reports are intended to be comprehensive in nature and document all of the activities undertaken as a part of the project, along with our findings, conclusions and recommendations. Within all of our reports, HDR provides technical appendices of all the technical analyses undertaken. HDR will provide three (3) copies of the draft final reports to the City for their review and comment. Any comments, suggestions or corrections from the City concerning the draft final reports will be incorporated into the final reports. Ten (10) copies of each of the final reports will be provided to the City.

Additionally, complete documentation of all workpapers used in the preparation of the utility rate study will be provided to the City. This should facilitate subsequent updating by City staff with limited input from outside consultants.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Review and comment on the draft written reports

Deliverables as a Result of Task 7 – Work papers and Report Documentation. From the work accomplished above, the deliverables for this task will be as follows:

- A draft and final written report for the water and sewer rate studies (separate reports)
- A copy of all workpapers used in the preparation of the study

Task 8—Meetings/Workshops/Public Presentations

Task Objective: Provide effective public presentations of the findings, results and recommendations of the study.

> ***"The overall quality and value of a rate study is often measured by the quality of the public presentation process."***

The overall quality and value of a rate study is often measured by the quality of the public presentation process. In addition, the ability of the consultant to present this technical material in a manner that is easily understandable to the City Council and public is paramount. HDR excels in this aspect of the study.

HDR would suggest up to three meetings with the Fayetteville Water and Sewer Committee. The first meeting would be at the start of the project and be in coordination with the initial project meeting. This meeting will provide to HDR any issues or concerns the Committee may have going into the study. The second meeting would review the findings of the revenue requirement and cost service analysis. The third meeting with the Committee would present the proposed water and sewer rate designs.

It is also assumed that a public meeting would be provided to review the findings, conclusions and recommendations of the study to the City Council. This public meeting would be after the meetings with the Water and Sewer Committee.

These four (4) meetings will provide the City with the flexibility it may need to present this study to the City Council and customers. HDR will work with the City to determine the content, timing and overall schedule of the meetings. Should additional public meetings/presentations be required, they will be provided on a time and material basis.

In addition to the above public meetings, the City may need to present the findings, conclusions and recommendations of this study to the outside financial community and/or State Agencies. It has been assumed that two meetings will be required to conduct these meetings.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Review and comment on any proposed handouts for public meetings

Deliverables as a Result of Task 8 – Meetings/Workshops/Public Presentations. From the work accomplished above, the deliverables for this task will be as follows:

- Up to three (4) workshops/public presentations with the City's Water and Sewer Commission and City Council during the rate study process to gain policy direction and present the results to the public.
- Up to two (2) meetings/presentations with the outside financial community and/or State Agencies to present the findings, conclusions and recommendations of the study.

Task 9—Computer Models

Task Objective: Provide a copy of all models developed as a part of this study.

The financial/rate model developed for the City will be provided at the end of the study. The model will be developed using the spreadsheet program of the City's choice (e.g. Excel, etc.). As the model is developed, HDR will work closely with City staff to attempt to provide a model that is easy to use and understand.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Select the City's preferred spreadsheet program

Deliverables as a Result of Task 9 – Computer Models. From the work accomplished above, the deliverables for this task will be as follows:

- A copy of the computer spreadsheet model used to develop the City's study.

Task 10—On-Going "As Needed" Support

Task Objective: Provide on-going "as needed" support to finalize any discussions and negotiations between the City and their outside City and wholesale customers.

The City is currently working with the City of Farmington to finalize agreement on the methodology that will be used to establish the sewer rates for Farmington. The management team for Fayetteville requires technical support to complete those negotiations. Any work conducted in this task will be provided on a time and materials basis and is not considered a part of the "basic" services required to conduct the comprehensive water and sewer rate study. All work conducted under this task will be at the direction of the City management team.

Expected City Staff Support for this Task: For this task, the City will be expected to:

- Provide direction on the requested support

Deliverables as a Result of Task 10 – On-Going "As Needed" Support. From the work accomplished above, the deliverables for this task will be as follows:

- Technical analysis to support the City's negotiations with Farmington

This concludes the discussion of the proposed scope of work for the City. This scope of work has been developed based upon our limited understanding of the City's goals and objectives for this study. HDR is willing to modify our approach to meet the City's specific needs.

2.4 Summary

This section of the proposal has provided a detailed discussion of our approach and methodology in meeting the City's water and sewer rate study needs. We have attempted to provide as much detail to our approach as reasonably possible. As needed, our proposed scope of work and approach can be revised to meet the specific needs of the City. We are confident of our ability to provide a quality work product to the City, and to work effectively and in the best interests of its customers.

Section 3
Project Team Members

3.1 Introduction

A key factor to the success of any project is the experience and expertise of the project team. To be successful in a rate study, the project team must successfully combine a number of people with different backgrounds and abilities into a well-rounded, comprehensive team. We believe that is the strength of HDR and our proposed project team for the City's study. This section of the proposal will review this aspect of our qualifications. Provided below is a brief discussion of each of the key project team members. More detailed resumes for each individual are included as appendices to this proposal.

3.2 Project Team Personnel

Provided below is an overview of the individuals to be assigned to the City's project and their qualifications. The personnel assigned to this project will be assigned to the project until its successful completion. The Project Manager for the study, Tom Gould, is committed to the successful completion of the City's study and as a part of this study, will attend all project meetings and public presentations.

3.2.1 Tom Gould, Vice President

RATE STUDY EXPERIENCE OF TOM GOULD	
Project Mgmt.	22 years
Revenue Requirements	27 years
Cost of Service	27 years
Rate Design	27 years
Computer Modeling	23 years
Public Presentations	25 years

The Project Manager for the City's study will be Tom Gould, a Vice President and the National Technical Director of Finance and Rates at HDR. Tom will be in charge of overall quality control for the study. In addition, he will participate in all public presentations. Tom is a nationally recognized expert in the area of cost of service and rate setting. He has been a project manager for numerous water, wastewater, solid waste, electric and natural gas rate studies for HDR. Among the clients he has worked with locally are the Alderwood Water and Sewer City, Woodinville Water and Sewer City, Highline Water City, City of Bremerton and the City of Mountlake Terrace. Tom has over 27 years of experience and during that time has had the opportunity to work with numerous public utilities throughout the United States and Canada. He is currently an instructor for the American Water Works Association (AWWA) Financial Management Seminar. He is also a past member of the AWWA Rates and Charges Subcommittee and a contributing author to the AWWA M-34 and M-1 manuals on water rate setting. Tom is located in the Bellevue, Washington office of HDR.

3.2.2 Shawn Koorn, Senior Financial Analyst

Rate Study Experience of Shawn Koorn	
Project Mgmt.	2 years
Revenue Requirements	6 years
Cost of Service	6 years
Rate Design	6 years
Computer Modeling	6 years
Public Presentations	3 year

Mr. Shawn Koorn, a Senior Financial Analyst with HDR will manage the day to day portions of the City's studies. Shawn specializes in the area of financial planning and rates. He has a strong command of spreadsheet and database programs and has successfully used a number of programs for graphics and presentations. Shawn has recently worked on a number of complex rate studies, including studies for the Jordan Valley Water Conservancy District, City of Norfolk (VA), Anchorage Water and Wastewater Utilities, and the Mesa Consolidated Water District. Prior to joining HDR, Shawn worked for the Island County Public Works Department. Shawn is located in the Bellevue office of HDR.

3.2.3 Judy Dean, CPA, Senior Financial Analyst

Judy Dean is a Senior Financial Analyst with HDR. Judy specializes in the area of financial planning, rates and connection fees for HDR. Judy has over eight years of professional consulting experience, and prior to consulting, worked for a medium sized municipal utility. She brings a strong background in accounting and finance to the project. Judy is a current Washington State CPA. Most recently, Judy developed rate studies and connection fee analyses for the following utilities: Skagit County PUD, Alderwood Water and Sewer City, Woodinville Water and Sewer City, City of Shelton (WA), Calaveras County Water City (CA) and the City of Folsom (CA). Judy is located in the Bellevue, Washington office of HDR.

Rate Study Experience of Judy Dean	
Project Mgmt.	3 years
Revenue Requirements	8 years
Cost of Service	8 years
Rate Design	8 years
Computer Modeling	10 years
Public Presentations	10 years

3.2.4 Kevin Lorentzen, Financial Analyst

Rate Study Experience of Kevin Lorentzen	
Project Mgmt.	0 year
Revenue Requirements	1 year
Cost of Service	1 year
Rate Design	1 year
Computer Modeling	4 years
Public Presentations	1 year

Kevin Lorentzen will assist in developing the computer models and analytical portions of the City's study. Kevin recently joined the HDR financial group and in a short time has proven his expertise in computer modeling, database management and understanding the issues facing public utilities. Kevin's skills in database management have been of assistance in several recent rate studies where the utility revenue and consumption data was provided as an extraction from the billing system. Kevin's knowledge of systems and functions within software programs have provided for efficient analysis of client data. Prior to joining HDR, Kevin served as a staff accountant at a manufacturing firm and as a Hydrological Technician for the U.S. Forest Service. Kevin is located in the Bellevue office of HDR.

3.3 Estimated Project Participation

An important element within our proposal is the level of participation and commitment by the Project Manager and other personnel. Provided below is the labor effort and level of commitment by individual for the City's study.

Individual	Project Role	Hours	
Tom Gould	Project Manager	132 hours	19.4%
Shawn Koorn	Manager – Technical Analysis	170 hours	25.0%
Judy Dean	Technical Analysis	54 hours	7.9%
Kevin Lorentzen	Technical Analysis	270 hours	39.7%
Others	Project Clerical Support	54 hours	8.0%
Total		680 hours	100.0%

3.4 Summary

The above noted individuals will provide the bulk of the required efforts for this project. Each individual has also worked extensively with City Councils, management, staff and the public to ensure that the goals and objectives of the utility are accomplished in a successful manner. Should additional personnel be required for a specific issue, HDR has additional personnel that can address any financial, rate, resource or engineering issue that may arise.

Section 4
Time Schedule and Fees

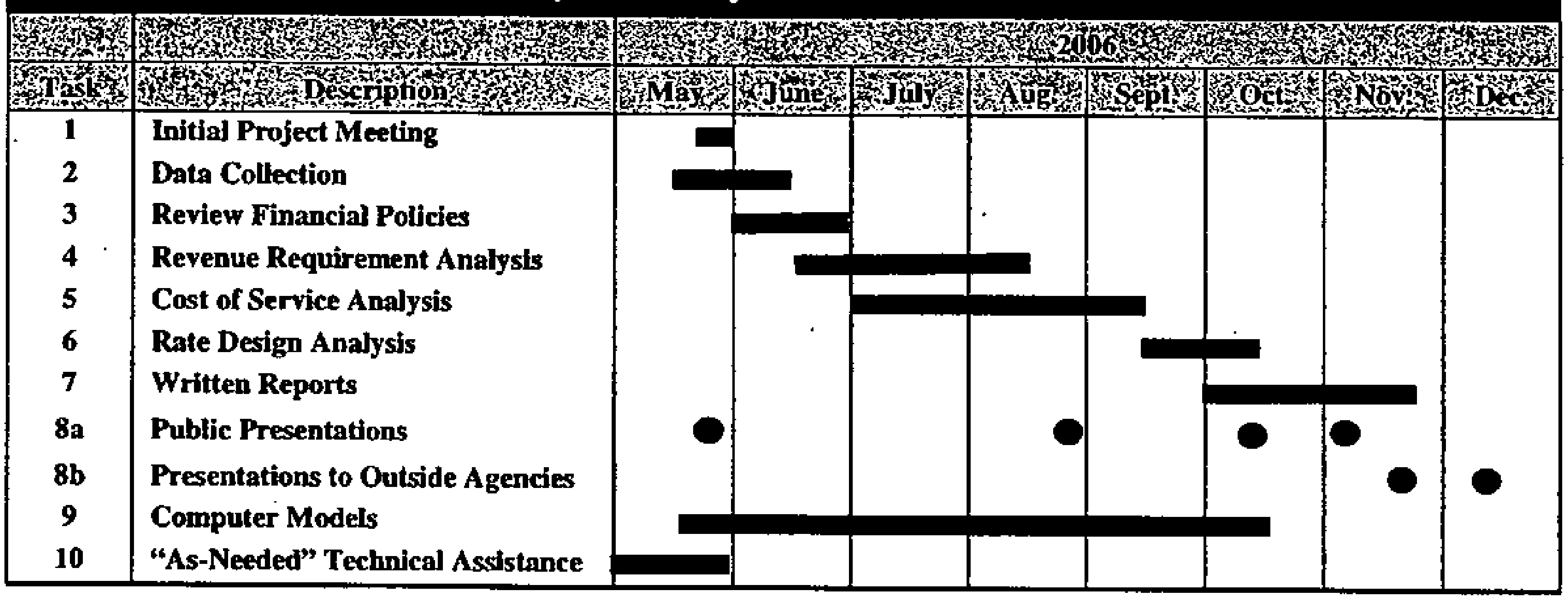
4.1 Introduction

This section of the proposal will provide a detailed overview of proposed time schedule and the estimated fees for this study. Our proposed time schedule and fees are based upon our understanding of the City's needs, along with the anticipated complexity of the study. HDR is willing to modify our proposed time schedule and fees to meet the specific needs of the City.

4.2 Estimated Project Time Schedule

A rate study of this complexity generally requires 24 to 36 weeks to complete, depending upon a number of factors. These factors include the amount of time required by the City to collect the necessary data, the quality of the data provided, the ability to schedule meetings with City staff in a timely manner and, most importantly, receive policy direction from the City's management and/or City Council on the study. Provided below in Figure 4-1 is our estimated proposed time schedule for the City's project.

Figure 4-1
Proposed Project Time Schedule



- *Water and Sewer Committee Workshop/Public Meeting*
- *City Council Public Meeting*
- *Outside Financial and State Agency Meeting*

HDR is willing to adjust the project time schedule to meet the City's needs.

4.3 Hourly Billing Rates

The following hourly billing rates were used to establish the proposed fees for this study.

Individual	Project Role	Hourly Rate
Tom Gould	Project Manager	$215.00/hour
Shawn Koorn	Manager - Technical Analysis	$130.00/hour
Judy Dean	Technical Analysis	$140.00/hour
Kevin Lorentzen	Technical Analysis	$85.00/hour
Others	Project Clerical Support	$80.00/hour

Should other HDR individuals be required for this project, they will be billed at their standard hourly billing rate. No subconsultants are needed for this study.

4.4 Estimated Project Fees

Given the hourly billing rates and estimated labor hours by task, the total estimated fees for the City's study could be developed. To assist the City in reviewing our proposal, the total fees have been developed by individual task. Provided below in Table 4-2 is a summary of the estimated fees for the City's project.

Table 4-2
Summary of the Estimated Fees for the Comprehensive Water and Sewer Rate Study

	Water	Sewer	Total
Labor:			
Task 1: Initial Project Meeting	$1,410	$1,410	$2,820
Task 2: Data Collection	435	435	870
Task 3: Review Financial Policies	990	990	1,980
Task 4: Revenue Requirement Analysis	6,921	8,459	15,380
Task 5: Cost of Service Analysis	7,672	11,508	19,180
Task 6: Rate Design Analysis	4,848	3,232	8,080
Task 7: Workpapers/Written Reports	4,740	4,740	9,480
Task 8a: Public Presentations - City	6,200	6,200	12,400
Task 8b: Public Presentations – Outside Agencies	0	5,320	5,320
Task 9: Computer Models	N/C	N/C	N/C
Task 10: As-Needed "On-Going" Tech. Assist.	0	9,800	9,800
Grand Total Labor	$33,216	$52,094	$85,310
Expenses:			
Airfare (10 RT @ $600/RT)	$2,400	$3,600	6,000
Hotel (18 days @ $130/day)	910	1,430	2,340
Car Rental (12 days @ $80/day)	400	560	960
Meals	150	150	300
Mileage/Parking	150	150	300
Miscellaneous (Report Copies, Fax, Phone, etc.)	250	250	500
Technology Charge	1,080	1,700	2,780
Total Expenses	$5,440	$7,840	$13,380
Grand Total "Not to Exceed" Fees	**$38,556**	**$59,934**	**$98,490**

The above fee estimate is based upon the scope of services previously presented. HDR Engineering, Inc. is willing to negotiate a final fee based upon a final agreed upon scope of services. Should the City request any additional services under this contract, the services will be provided at the hourly billing rates stated above. All portions of this proposal can be expanded or reduced as mutually agreed upon in writing by the City and HDR. The above quoted fees will remain in effect until July 1, 2006.

4.5 Proposed Method of Payment

HDR is willing to enter into a fixed fee, lump sum payment for this project. HDR would propose that the fees be split into seven equal monthly payments. The last (7^{th}) payment would be held by the City until all final reports are completed and delivered to the City, and the project is completed to the City's satisfaction. At that point, the final payment would be billed to the City and the project completed.

4.6 Summary

HDR has provided a detailed discussion regarding the proposed time schedule and fees for the City's project. If necessary, we are willing to adjust our scope and schedule to attempt to work within the City's constraints and needs.

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

5/16/06
9/20/2005

City Council Meeting Date

Submitted By	Division	Department
Ray M. Boudreaux	Aviation & Economic Dvelopment	General Government

Action Required:

Action Required: Approve an Offer and Acceptance Contract with Eclipse Displays Inc.; Mark Golab, President; 501 S. Government Ave, Fayetteville, AR, 72701; 479-973-9001; to purchase from the City, Parcel 2W in the South Industrial Park.

REVENUE

$ 169,800.00	$ 940,200.00	Contrib
Cost of this request		Program Category / Project Name
1010.0001.4881.02	$ 50,587.00	General Fund Revenue
Account Number	Funds Used to Date	Program / Project Category Name
NA	$ 889,613.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Boudreaux	4/28/06	Previous Ordinance or Resolution #
Department Director	Date	Original Contract Date:
D. J. Whit	5/1/06	Original Contract Number:
City Attorney	Date	
Stephen Davis	5/1/06	Received in City Clerk's Office ENTERED 4/28/06
Finance and Internal Service Director	Date	
Dan Coody	5/2/06	Received in Mayor's Office ENTERED 5/1/06
Mayor	Date	

Comments:

City Council Meeting of: May 16, 2006
Agenda Item Number:

CITY COUNCIL AGENDA MEMO

TO: Mayor

THRU: Staff/Contract Review Committee

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

DATE: April 28, 2006

SUBJECT: Approve Offer and Acceptance Contract for the sale of Parcel 2W in the Fayetteville Industrial Park for $169,800.00 to Eclipse Displays, Inc.

RECOMMENDATION: Approve contract for the sale of Parcel 2W in the Fayetteville Industrial Park to Eclipse Displays, Inc. for a total price of $169,800.00.

BACKGROUND: Eclipse Displays, Inc. is owned by Mark Golab, President; Richard Johnson, Vice President; and Timothy McCuin, Treasurer. They are located in four buildings in Fayetteville and have applied to purchase this property on which to construct a building from which to operate the business. They design, construct and store trade show displays. One of their clients is the Arkansas Department of Economic Development.

DISCUSSION: They currently employ 23 and plan to grow to 35 over the next five years. The parcel is located on Pump Station Road, is 9.49 acres. The northern most acre of the property is in the floodway and we have not charged for that one acre. It cannot be built on.

BUDGET IMPACT: The proceeds will go into the economic development fund.

Attachments: Staff Review form
Offer and Acceptance

RESOLUTION NO. ______

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND ECLIPSE DISPLAYS, INC. TO PURCHASE PARCEL 2W - SOUTH INDUSTRIAL PARK FROM THE CITY OF FAYETTEVILLE FOR $169,800.00; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT.

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 Offer and Acceptance contract between the City of Fayetteville and Eclipse Displays, Inc. to purchase Parcel 2W - South Industrial Park from the City of Fayetteville for $169,800.00. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said agreement with Eclipse Displays, Inc.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

OFFER AND ACCEPTANCE CONTRACT

1. Eclipse Displays, Inc. offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION

2. **Purchase Price**: Subject to the following conditions, Eclipse Displays, Inc. shall pay for the property at closing, the total and cash payment of **$ 169,800.00**.

3. **Contingent Earnest Money Deposit**: Eclipse Displays, Inc. herewith tenders a check for **$1,000.00** to the City of Fayetteville, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to Eclipse Displays, Inc. by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to Eclipse Displays, Inc. If Eclipse Displays, Inc. fails to fulfill their obligations under this contract or, after all conditions have been met, Eclipse Displays, Inc. fails to close this transaction, the earnest money may, at the option of the City of Fayetteville, become liquidated damages to the City of Fayetteville.

4. Conveyance will be made to Eclipse Displays, Inc. by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.

5. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. Eclipse Displays, Inc. and the City of Fayetteville shall share equally in the cost of the title insurance.

6. The City of Fayetteville agrees to allow Eclipse Displays, Inc. , if Eclipse Displays, Inc. so desires, at Eclipse Displays, Inc. 's expense, to survey the property. The City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.

7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date shall be within ninety (90) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.

9. Possession of the property shall be delivered to Eclipse Displays, Inc. on the date of closing.

10. The City of Fayetteville hereby grant(s) permission for Eclipse Displays, Inc. or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.

11. All fixtures, improvements and attached equipment are included in the purchase price.

12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.

13. The City of Fayetteville shall disclose to Eclipse Displays, Inc. any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Eclipse Displays, Inc. and the City of Fayetteville shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, the City of Fayetteville shall cure such, at their expense; or, in the alternative, at Eclipse Displays, Inc. 's discretion, Eclipse Displays, Inc. may cure such environmental hazard, and the City of Fayetteville shall indemnify Eclipse Displays, Inc. for all costs associated with said cure.

14. This agreement shall be governed by the laws of the State of Arkansas.

15. This agreement, when executed by both Eclipse Displays, Inc. and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

16. This contract expires, if not accepted by the City of Fayetteville on or before the 20th day of June, 2006.

17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within Thirty (30) days of acceptance by the City of Fayetteville.

18. It is expressly understood by the parties that the price established by the City Council is a reduced price to create valuable manufacturing jobs in the Fayetteville Industrial Park and that the sale of the property may not be for speculation or resale. Should Eclipse Displays, Inc. wish to sell the property before the project proposed to the City of Fayetteville is constructed, the City of Fayetteville shall have the right to purchase the property at the same price less all of its costs including any infrastructure built by the City to accommodate the project for which it was sold to Eclipse Displays, Inc..

19. **NOTICE:** **THE Eclipse Displays, Inc. AND THE CITY OF FAYETTEVILLE ASSERTS HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO THE Eclipse Displays, Inc. OF THE $ 1,000.00 EARNEST MONEY DEPOSIT.**

For Eclipse Displays, Inc:

president
Mark E. Golab, President — Date: 4-27-06

vice president
Richard L. Johnson. Vice President — Date: 4-27-06

For The City of Fayetteville, Arkansas, A municipal corporation:

Dan Coody, Mayor — Date:

Sondra Smith, City Clerk — Date:

EXHIBIT "A"
PROPERTY DESCRIPTION

That property described as Lot 2W containing 9.49 acres plus or minus of the Fayetteville Industrial Park located in 22-16-30 Washington County, Arkansas as depicted on the attached copy from the FINAL PLAT, FAYETTEVILLE INDUSTRIAL PARK-WEST dated July 1987.

SIGNED FOR IDENTIFICATION:

president
Mark E. Golab, President — Date: 4-27-06

vice president
Richard L Johnson, Vice President — Date: 4-27-06

Dan Coody, Mayor — Date:

Sondra Smith, City Clerk — Date:

ACKNOWLEDGMENT

STATE OF ARKANSAS
) ss.
COUNTY OF WASHINGTON)

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 ________, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are ______________________________ of __________ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said ______________________________, and further stated and acknowledged that he/she/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.

____
Notary Public

MY COMMISSION EXPIRES:

____

ACKNOWLEDGMENT

STATE OF ARKANSAS
) ss.
COUNTY OF WASHINGTON)

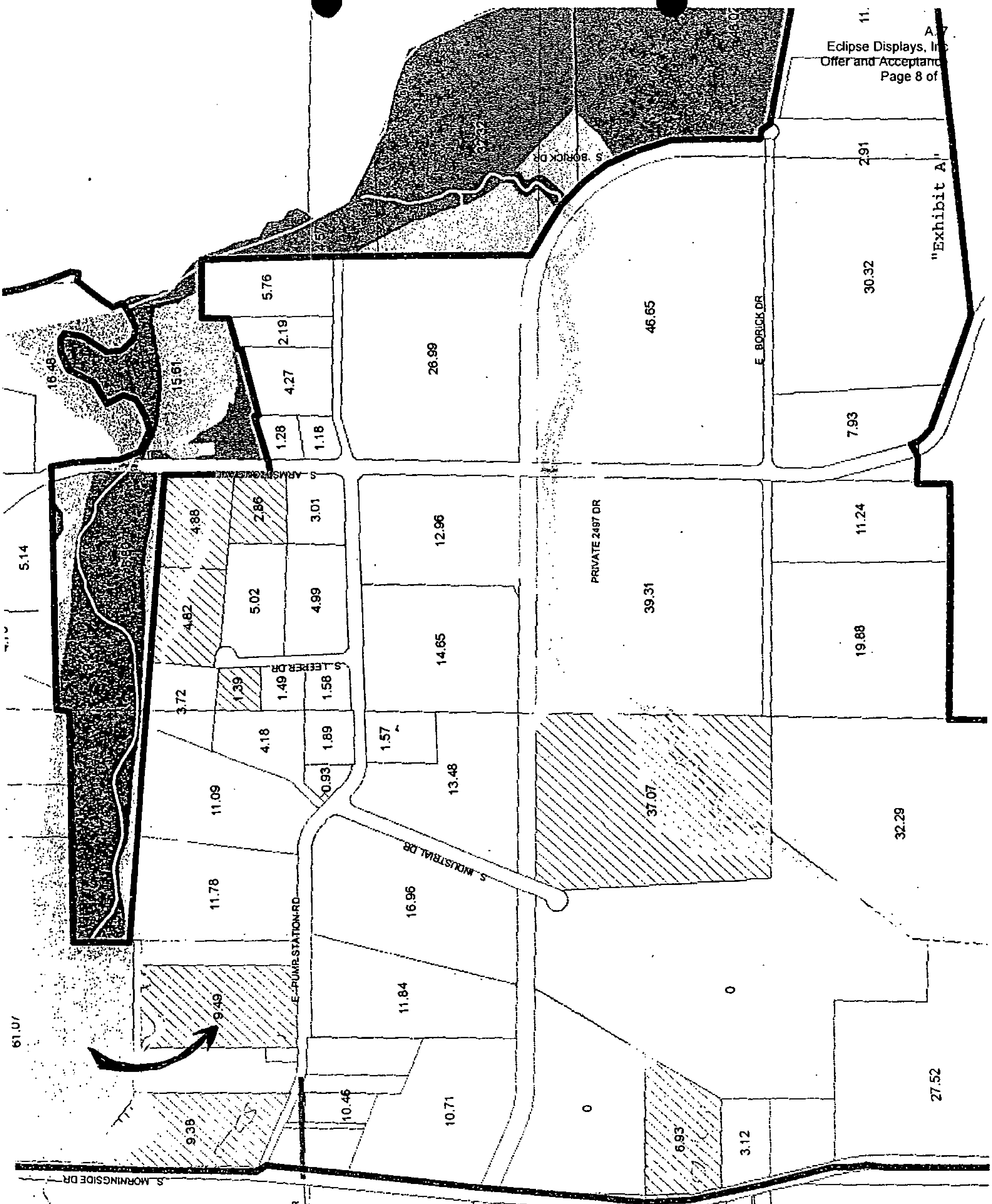
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal 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.

____
Notary Public

MY COMMISSION EXPIRES:

____


"Exhibit A"
S MORNINGSIDE DR
IVATE 2103 DR
E PUMP STATION RD
S INDUSTRIAL DR
S LEERER DR
S ARMSTRONG AVE
PRIVATE 2497 DR
E BORICK DR
S BORICK DR
61.07
9.49
9.38
10.46
10.71
11.84
11.78
11.09
16.96
13.48
0.93
1.89
4.18
1.57
3.72
1.39
1.49
1.58
14.65
4.82
5.02
4.99
12.96
4.88
2.86
3.01
5.14
1.28
1.18
4.27
2.19
5.76
26.99
16.48
15.61
46.65
39.31
37.07
32.29
0
0
6.93
3.12
27.52
19.88
11.24
7.93
30.32
2.91
11.

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

16-May-06
City Council Meeting Date

Stephen Davis	FIS Director	Finance & Internal Services
Submitted By	Division	Department

Action Required:

Approval of a resolution authorizing the expenditure of up to $50,000 with Washington County for Fayetteville's cost-share of continuation the evaluation and study of options to provide emergency medical services for Fayetteville citizens.

$50,000.00	$ 300,000.00	Transfer to CEMS
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-6600-5705-00	$ 250,000.00	Miscellaneous
Account Number	Funds Used to Date	Program / Project Category Name
	$ 50,000.00	General Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item: XX

Budget Adjustment Attached:

Department Director — Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

D. J. White — 5/1/06
City Attorney

Stephen Davis — 4-28-06
Finance and Internal Service Director — Date

Received in City Clerk's Office
ENTERED 5/1/06

Dan Coody — 5/1/06
Mayor — Date

Received in Mayor's Office
ENTERED 5/1/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

City Council Meeting May 16, 2006

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, Finance & Internal Services Director

DATE: April 25, 2006

Subject: **Cost-share – Emergency Medical Service Delivery Study with Washington County**

Recommendation:
Staff recommends City Council approve a resolution authorizing the expenditure of up-to $50,000 to Washington County for the City's cost-share of the continued evaluation, study and recommendations for emergency medical services.

Background/Discussion:
City Council approved a cost-share agreement with Washington County for the initial phase of the evaluation and study of emergency ambulance services. Washington County contracted with Health Care Visions to provide these services and to develop a series of recommendations for the emergency ambulance service delivery that would address the long-term needs of both the City of Fayetteville and Washington County. The consultant presented their findings and recommendations in October 2005.

Numerous meetings have been conducted between representatives of Washington County, private non-emergency ambulance companies and cities in Washington County subsequent to the publication of the consultant findings and recommendations in October 2005. Washington County incurred approximately $62,000 in cost for 2005. If Fayetteville shared the entire cost with Washington County City Council will need to authorize an additional $10,012.21 for the remaining expenses from 2005. The remaining $39,000 plus could be utilized for additional expenditures in 2006.

Washington County is requesting Fayetteville continue to cost-share as the County and City continue to evaluate the recommendations made in Phase 1. Fayetteville utilized $21,000 of $50,000 appropriated for this purpose in 2005 and has an additional $50,000 appropriated for 2006.

Budget Impact:
The City budgeted $300,000 for emergency medical/ambulance services for 2006. This appropriation was planned for the annual contract with CEMS and to further the implementation recommendations made in 2005 or fund additional evaluations.

RESOLUTION NO. ______

A RESOLUTION AUTHORIZING PAYMENT NOT TO EXCEED $50,000.00 TO WASHINGTON COUNTY AS THE CITY OF FAYETTEVILLE'S SHARE OF THE COST OF THE CONTINUED EVALUATION, STUDY AND RECOMMENDATIONS FOR EMERGENCY MEDICAL SERVICES.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes payment not to exceed $50,000.00 to Washington County as the City of Fayetteville's share of the cost of the continued evaluation, study and recommendations for emergency medical services.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
SONDRA SMITH, City Clerk

SCANNED

RESOLUTION NO. 96-05

A RESOLUTION AUTHORIZING PAYMENT NOT TO EXCEED $21,000.00 TO WASHINGTON COUNTY AS THE CITY OF FAYETTEVILLE'S SHARE OF THE COST OF THE EVALUATION, STUDY AND RECOMMENDATIONS FOR EMERGENCY MEDICAL SERVICES.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes payment not to exceed $21,000.00 to Washington County as the City of Fayetteville's share of the cost of the evaluation, study and recommendations for emergency medical services.

PASSED and APPROVED this 17th day of May, 2005.

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

GL.AKC.1

WASHINGTON COUNTY
FROM 05-01 TO 06-04
YTD DETAIL GENERAL LEDGER

10:48:23am 21 Apr 2006 PAGE 1

ACCOUNT WARRANT	CONTROL DOC #	ANNOTATION	DATE	JOURNAL	DEBIT AMOUNT	CREDIT AMOUNT
01.01.3310.0		EMS STUDY	BEGINNING BALANCE	0.00		
				TOTAL DEBIT/CREDIT	0.00	0.00
			ENDING BALANCE	0.00		
01.01.3310.48		OTHER PROFESSIONAL SERVICES	BEGINNING BALANCE	0.00		
01*566*05	206864	01*10957 EARNEST, HUGH	03/02/05	AP-2005.12*277	1,250.00	0.00
01*2899*05	212368	01*11129 HEALTH CARE VISIONS	07/20/05	AP-2005.25*1643	22,471.08	0.00
01*3487*05	214319	01*10957 EARNEST, HUGH	09/16/05	AP-2005.30*1239	2,904.94	0.00
01*3493*05	214318	01*11129 HEALTH CARE VISIONS	09/16/05	AP-2005.30*1241	15,828.20	0.00
01*4126*05	215266	01*11129 HEALTH CARE VISIONS	10/06/05	AP-2005.31*129	3,700.00	0.00
01*4771*05	217249	01*10957 EARNEST, HUGH	12/12/05	AP-2005.37*135	1,250.00	0.00
01*5424*05	218509	01*10957 EARNEST, HUGH	12/31/05	AP-0601.5*129	-2,000.00	0.00
01*5426*05	218508	01*11129 HEALTH CARE VISIONS	12/31/05	AP-0601.5*131	4,735.16	0.00
01*338*06	219301	01*10957 EARNEST, HUGH	02/06/06	AP-0602.2*211	-2,000.00	0.00
01*879*06	220797	01*10957 EARNEST, HUGH	03/17/06	AP-0604.1*629	-2,000.00	0.00
01*889*06	220794	01*11129 HEALTH CARE VISIONS	03/17/06	AP-0604.1*631	1,298.04	0.00
01*1577*06	221832	01*10957 EARNEST, HUGH	04/10/06	AP-0604.2*455	-2,000.00	0.00
				TOTAL DEBIT/CREDIT	61,437.42	0.00
			ENDING BALANCE	61,437.42-		
01.01.3310.55		ADVERTISING & PUBLICATIONS	BEGINNING BALANCE	0.00		
				TOTAL DEBIT/CREDIT	0.00	0.00
			ENDING BALANCE	0.00		
01.01.3310.79		MEALS & LODGING	BEGINNING BALANCE	0.00		
01*626*05	207206	01*A0076 ABEL VIRGINIA	03/11/05	AP-2005.12*279	49.58	0.00
01*1832*05	209926	01*TRAN11TRANSFER TO P-CARD CLEARING	05/19/05	AP-2005.20*628	67.45	0.00
01*2200*05	211130	01*TRAN11TRANSFER TO P-CARD CLEARING	06/20/05	AP-2005.22*452	60.61	0.00
01*3228*05	213424	01*TRAN11TRANSFER TO P-CARD CLEARING	08/19/05	AP-2005.27*470	91.33	0.00
01*4304*05	215827	01*10957 EARNEST, HUGH	10/21/05	AP-2005.32*255	318.04	0.00
				TOTAL DEBIT/CREDIT	587.01	0.00
			ENDING BALANCE	587.01-		
			TOTALS FOR FUND 01		62,024.43	0.00
***** GRAND TOTALS					62,024.43	0.00

Cost share Fayetteville 21,000.00
Washington County 21,000.00
42,000.00

Balance to share 20,024.43

Prepared by Boyd Darling 10:47:42 21 APR 2006

Washington County, Arkansas

Comptroller's Office
280 N College, Suite 530
Fayetteville, AR 72701

Invoice

DATE	INVOICE #
12/30/2005	2006-27

BILL TO
City of Fayetteville Attn: Steve Davis 113 W Mountain Fayetteville, AR 72701

P.O. NO.	TERMS	PROJECT

QUANTITY	DESCRIPTION	RATE	AMOUNT
	City's Share of EMS Study	50,000.00	50,000.00

DATE Received 4/25/06 AD

Total $50,000.00

JERRY HUNTON
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

May 2, 2006

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

Dear Mayor Coody:

As you know, both the city and county in late 2004 placed $50,000 in our respective budgets for use in evaluating possible improvements in our ambulance system. The first action taken was the employment of Health Care Visions as the consultant of record to evaluate our current system and to make recommendations for improvement to the system. That study was completed in September, 2005.

Subsequent to the receipt of the report, we have continued conversations with your city council and based on advice from the county attorney, we have decided that the public interest will be best protected by the use of a bid process to ensure that we have secured the best possible provider. During this period, we have had considerable discussions, which are still ongoing, relative to the feasibility of using a single provider to furnish all emergency and non-emergency service.

I have recently been informed that the city council limited the use of the $50,000 to the payment of their portion of the cost of the consultant study. As you will note from the attachment listing costs to date, we have used Health Care Visions for some Phase II work and have used Mr. Hugh Earnest as a facilitator for our efforts.

My purpose for this letter is simply to request that the council release the remainder of the $50,000 originally appropriated in the 2005 budget. I regret the confusion over this issue, but I do believe that with some continued work over the next several months we will be successful in identifying and selecting a company to provide this much needed public safety function.

Thanks in advance for you assistance in this matter.

Sincerely,

Jerry Hunton
County Judge

Telephone: 479 / 444-1700 • FAX: 479 / 444-1889

Added at Agenda Session 3/28/06. C.6.

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

4/4/2006
City Council Meeting Date

Dan Coody		Mayor
Submitted By	Division	Department

Action Required:

Resolution Approving Implementation of a Process Establishing an Ambulance Service Public Utility and Soliciting Proposals for Exclusive Emergency and Non-Emergency Ambulance Service

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
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 # ______

Original Contract Date: ______

Original Contract Number: ______

City Attorney [signature] Date 3-28-06

Finance and Internal Service Director [signature] Date 3-28-06

Mayor [signature] Date 3/28/06

Received in City Clerk's Office ENTERED 3-28-06

Received in Mayor's Office ENTERED 3/28/06

Comments:

Tabled to 5/16/06 mtg 4/18/06
Tabled to 4/18/06 mtg 4/4/06

Fayetteville
ARKANSAS

To: City Council
From: Dan Coody, Mayor
Date: March 24, 2006
RE: Emergency Ambulance Service

Attached is a memo from the Washington County Administration expressing their very real concern for the availability of an economically sustainable emergency ambulance service for Fayetteville and Washington County.

My primary concern is that this vital service is available, with an acceptable response time, for the residents of Fayetteville.

The issue of current concern to the Washington County Administration is the pending expansion of a major national ambulance service provider within the County. This service provider will only handle non-emergency transfers. This provider will influence the non-emergency transfer market, reducing the non-emergency transfers available to the current emergency service provider and therefore their ability to financially sustain emergency operations.

The consequence of this loss of market share will have a potentially serious affect upon CEMS's ability to remain financially viable.

The loss of financial viability will result in one of two scenarios; no emergency ambulance service or more City/County money to fund the cash shortage of the emergency service provider.

The City of Fayetteville paid CEMS $156,000 in 2004, $250,000 in 2005, and has budgeted $300,000 for 2006 for services. This is an increase of almost 200% in 2 years. The $300,000 budgeted for 2006 will not be sufficient to sustain the service even if there is only a marginal expense/revenue impact due to the loss of a portion of the non-emergency transfer market.

There are limited options available to the local governments. These are:

1. Do nothing. Wait and see what happens to the current emergency provider and be prepared to fund an annual cash shortfall. Additional funding will probably be necessary this year and certainly in future years. This funding can not be withheld without the prospect of significant consequences.
2. Immediately begin the process of soliciting proposals for an exclusive franchise for emergency and non-emergency ambulance services to be operational by January 1, 2007. The most apparent mechanism to accomplish this exclusive franchise is through the Public Utility Model (PUM). Additional funding may be necessary for CEMS emergency services for 2006.

The Washington County Administration has suggested waiting until January 1, 2008 to implement an exclusive franchise. I suggest that this can be accomplished by January 1 2007.

There are multiple service providers interested in our market. We should proactively begin a process to minimize the public investment that must be made in emergency ambulance services and find the best provider available.

Certainly there will be issues in who pays as we create the PUM. The level of service provided to the rural areas, the City of Fayetteville, and the other towns and cities within the county will be one determinate of the cost to each entity and will likely be a source of concern for all parties. However, we can solve these issues.

The question is, are we to be proactive and solve the problem before a crisis emerges or will we wait until limitations on service delivery jeopardizes the safety of our citizens?

I suggest that we proactively begin the process of finding the best service provider possible and implement an exclusive franchise for all ambulance services through the public utility model to be operational by 1-1-2007.

Date: March 23, 2006

To: Mayor Dan Coody

From: John Gibson
Hugh Earnest

Subject: Provision of County Wide Ambulance Service

Background

As you well know, both the city and county have, for more than a year, been pursuing a long term solution that will insure the continued availability of high performance emergency and non emergency ambulance service for the majority of this wonderful county. The creation of a not for profit entity, Central Emergency Management Service (CEMS) in 1980 was the result of dedicated individuals in the county and city working together to create a service provider that has to this day provided a good to excellent level of service to a large service area in Washington County.

In 2005, both the city and county, recognizing that the rapid growth in this area was causing service delivery problems for CEMS, commissioned a study by a nationally recognized consultant that validated the position that the next logical step for the region would be the creation of a Quasi-Governmental Public Utility Model (PUM) for the express purpose of operating an ambulance system. There was a general consensus that while the system was not broken, logic dictated that we should implement improvements prior to any serious problems with the system. While the study suggested that the current system could be folded into the yet to be created PUM, it has been decided that the interests of the region would be best served by opening the service to other companies through the use of a carefully crafted Request for Proposal (RFP). All parties recognize that the participation of the city of Fayetteville, as the largest user of ambulance service, in the PUM is crucial to its success.

Current Situation/Discussion

Over the past several months, several entities have been engaged in the preliminary discussions that are necessary as we move toward the creation of the new governing entity. What has changed in the past several weeks is the fact that the largest for profit provider of ambulance service in the country American Medical Response (AMR) is moving into this region. (AMR, a part of Onex Corporation from Canada, operates in over 250 locations and has 17,000 employees. It was purchased from Laidlaw of Canada in 2005. Its headquarters are in Greenwood Village, Colorado.) We have discovered from other parties that it is their intent to focus initially on non-emergency service in both Benton and Washington counties. While it is their absolute right, under current local and state regulations, to establish a presence whenever and wherever they wish, it is also true that such an action will cause immediate revenue problems to CEMS in Fayetteville and Washington county if, as we suspect, the company focuses on securing a significant percentage of the non-emergency operations.

We have included as an attachment, a summary of revenues and expenses for CEMS for 2005. It shows essentially a break-even operation with a small loss of less than $5,000. Also included is a bar graph showing the number of emergency and non-emergency operations since 2003. It is significant that the number of non-emergency operations is trending downward. Last year, CEMS in its non-emergency component, netted $426,000 for 1076 billable transfers. Any reduction in this number in 2006 will adversely impact the ability of this non-profit to operate absent the infusion of additional operational monies from the two entities currently providing subsidies.

On March 21st the CEMS board held its annual meeting. While there was no formal vote taken, the board recognizes that the decision on how best to meet our future needs for high performance ambulance service can be addressed in a satisfactory fashion by crafting a Request for Proposal RFP that will be placed on the street. We have been given every indication that there are a number of national and regional providers that will be interested in responding. One of the entities that will be responding will be CEMS.

Recommendation
It is crucial that this region retain a viable, fiscally solvent entity that will continue to provide emergency response capability in this area as we all move forward to set up the PUM and craft the RFP. What we recommend in the interim to insure that a viable service remains in place is the passage of an emergency ordinance establishing exclusivity for emergency and non-emergency service in the CEMS service area in Fayetteville, AR. This emergency ordinance would be in effect thru January 1, 2008. In addition, the ordinance would mandate that an RFP would be sent out in May or June of 2007 with a clear understanding that an award to a service provider would be made with the implementation date to be January 2008.

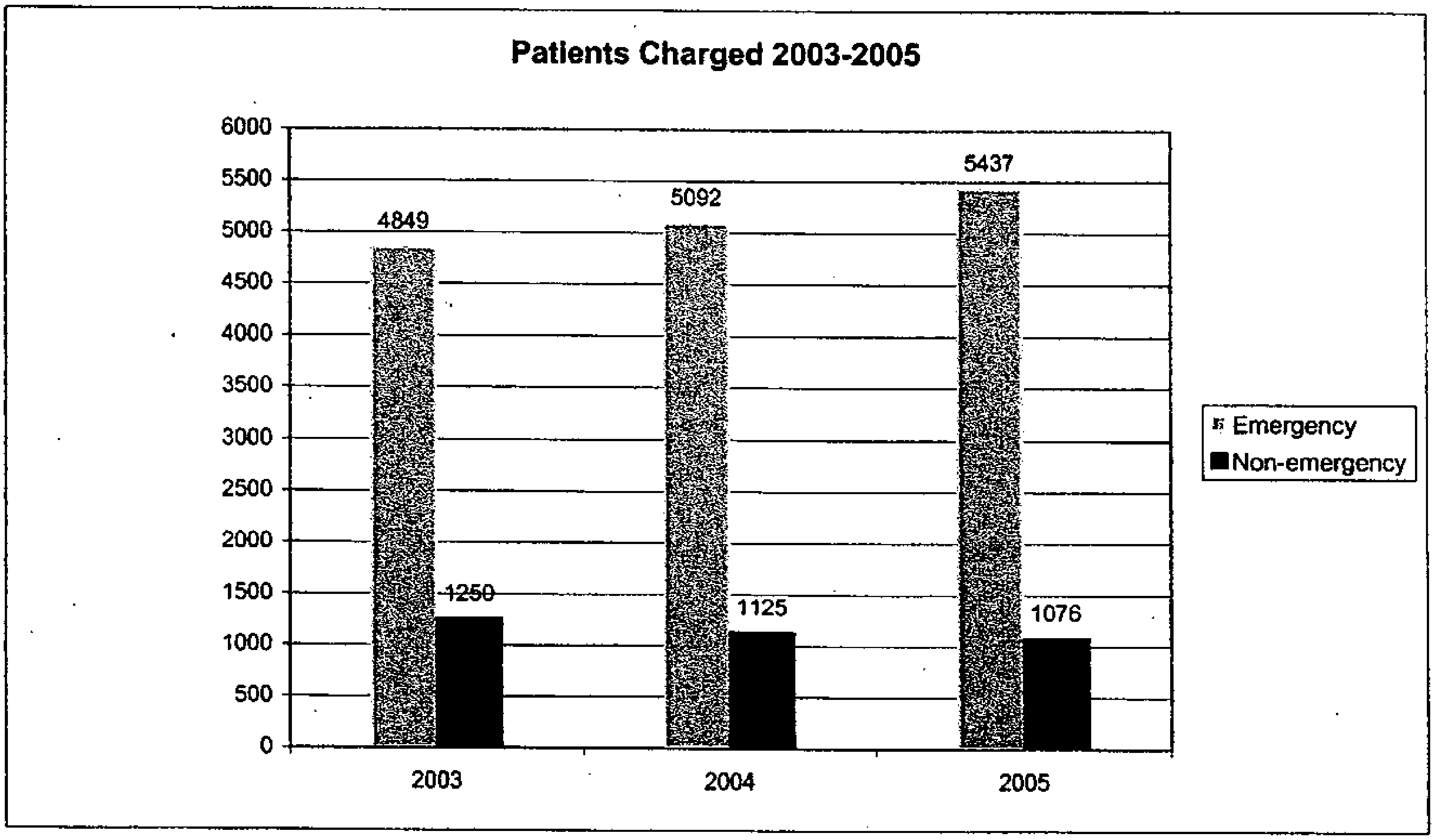
As we stated earlier, CMS expects to compete along with a number of private and public for-profit entities within the RFP process.

We believe that this option best preserves and protects from a public policy perspective a health and safety issue of paramount importance to all residents of this great county.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
STATEMENTS OF ACTIVITIES
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004

	2005	2004
Revenue and Support		
Revenue:		
Patient Fees	$ 4,733,460	$ 4,112,479
VA Charges	378,130	432,720
Wheelchair Charges	117,713	187,222
Less: Medicaid/Medicare Writedowns	(1,290,793)	(1,129,391)
Net Patient Revenue	3,938,510	3,603,030
911 Reimbursements	73,016	69,749
PAMP - Net	833	11,841
Bad Debt Recoveries	32,361	34,241
Standby Fees	95,735	96,730
Miscellaneous Income	62,240	39,863
Total Revenue	4,202,695	3,855,454
Support:		
City of Fayetteville	250,001	156,000
Washington County EMS Assistance	495,973	340,643
Washington County Dispatch Assistance	148,133	136,856
Donations	-	25
Grant	66,297	4,332
Total Support	960,404	637,856
Total Revenue and Support	5,163,099	4,493,310
Expenses		
Administrative	350,221	326,942
Program	4,814,843	4,192,993
Total Expenses	5,165,064	4,519,935
Revenue and Support under Expenses	(1,965)	(26,625)
Other Income (Expense)		
Interest Expense	(8,342)	(6,300)
Interest Income	141	351
Gain (Loss) on Disposal of Assets	5,495	(31,246)
Total Other Income (Expense)	(2,706)	(37,195)
Decrease in Unrestricted Net Assets	(4,671)	(63,820)
Net Assets, Beginning of Year	2,134,113	2,197,933
Net Assets, End of Year	$ 2,129,442	$ 2,134,113

See Notes to Financial Statements.


Patients Charged 2003-2005
6000
5500
5000
4500
4000
3500
3000
2500
2000
1500
1000
500
0
4849
1250
5092
1125
5437
1076
2003
2004
2005
Emergency
Non-emergency

RESOLUTION NO. ______

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S INTENT TO CONTRACT EXCLUSIVELY USING COMPETITIVE PROCUREMENT METHODS WITH A SINGLE ENTITY FOR THE PROVISION OF ALL EMERGENCY MEDICAL SERVICES AND AMBULANCE SERVICES FOR THE CITY OF FAYETTEVILLE

WHEREAS, A.C.A. §14-226-101, et. seq. grants cities the right to contract exclusively with a single provider of ambulance services selected by competitive procurement procedures; and

WHEREAS, the City of Fayetteville can reduce its taxpayer costs by granting an exclusive franchise within Fayetteville for all emergency and non-emergency ambulance services for its citizens.

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 expresses its intent to use the provisions of A.C.A. §14-266-101, et. seq. to competitively select an ambulance services provider and grant such provider an exclusive franchise within Fayetteville to provide all emergency and non-emergency ambulance services as allowed by state law.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Kit Williams, Fayetteville City Attorney
FROM: David J. Whitaker, Assistant City Attorney
DATE: March 16, 2006
RE: Constitutionality of "Public-Utility Model" for Ambulance Service

You have asked me to research whether the City of Fayetteville has the authority to adopt a "public-utility model" for emergency and non-emergency ambulance services without running afoul of the U.S. Constitution. For the reasons set forth below, I conclude that the answer is "yes."

In Gold Cross Ambulance and Transfer v. City of Kansas City, 705 F.2d 1005 (8th Cir. 1983) cert. denied, 471 U.S. 1003 (1985), the U.S. Circuit Court of Appeals upheld an almost identical plan adopted by Kansas City against both anti-trust and constitutional challenges brought by two private ambulance services. The Court stated that the city had acted in accordance with the state legislature's express authorization and "intent to displace competition in the ambulance industry." Id. at 1013.

As to the constitutional challenges, the Gold Cross court affirmed the District Court's grant of summary judgment in favor of all defendants, stating that "We agree with the court below that the challenged ordinance is designed to promote the public health, safety and welfare; and that it does not infringe on any fundamental constitutional right. ***There is no absolute right to contract free of state regulation under the police power.*** Id. at 1015. (emphasis added).

Arkansas too, has adopted a statute authorizing cities to regulate emergency and non-emergency ambulance services. A.C.A. §14-266-101 et seq. (West 2004). The legislation includes detailed and express legislative determinations supporting municipal regulation of such services, including: "that emergency medical services and ambulance operations, when subjected to competitive practices of multiple companies simultaneously serving the same city, operate under precarious financial conditions and that this type of competition is harmful to the health, safety, and welfare of residents of the state." A.C.A. § 14-266-102(b)(1).

While the legislature granted cities "the right and power to contract exclusively or otherwise," for both emergency and non-emergency ambulance services, it also made it quite clear that cities must adhere to "competitive procurement methods" in order to allow "periodic competition among companies" providing such services. Id.

Based on the Eighth Circuit's holding in Gold Cross, it is my conclusion that so long as the City of Fayetteville enacts its "public-utility model" for ambulance service in strict accordance with the requirements of A.C.A. §14-266-101 et seq., the ordinance in question should survive constitutional challenge.

CHAPTER 266

MUNICIPAL AMBULANCE LICENSING

§ 14–266–101. Short title

This chapter shall be known as the "Municipal Ambulance Licensing Act."

Acts of 1981 (Ex. Sess.), Act 23, § 1.

Formerly A.S.A. 1947, § 19–5901.

Library References

Automobiles ⟹65 to 108.
Westlaw Key Number Search: 48AkIII(B).

C.J.S. Motor Vehicles §§ 5, 36 to 37, 105 to 113, 156, 158, 161, 171 to 214, 216 to 220, 222 to 242, 244 to 249, 252 to 255, 1296.

§ 14–266–102. General Assembly; determinations and intentions

(a)(1) It is legislatively determined that it may be desirable for cities of the first class and second class within this state to be authorized and empowered to own, operate, permit, control, manage, franchise, license, and regulate emergency medical services, emergency medical technicians, emergency and nonemergency ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and any and all aspects attendant to providing emergency medical services and ambulance operations as the cities may deem proper to provide for the health, safety, and welfare of their citizens.

(2) In addition, it is legislatively determined that, in order to accomplish the purposes enumerated in this chapter, it may also be necessary for the cities, in addition to all other powers granted in this chapter, to enact and establish standards, rules, and regulations that are equal to, or greater than, the minimum standards, rules, and regulations established by the state, pursuant to §§ 20–13–201 — 20–13–209 and 20–13–211, concerning emergency medical services, emergency medical technicians, ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and any and all aspects attendant to providing emergency medical services and ambulance operations within the boundaries of their respective cities.

(3) Further, it is the legislative intent that the standards, rules, and regulations shall not be less than those established by the state.

(b)(1) It is further legislatively determined that emergency medical services and ambulance operations, when subjected to competitive practices of multiple companies simultaneously serving the same city, operate under precarious financial conditions and that this type of competition is harmful to the health, safety, and welfare of residents of the state.

(2) However, it is also legislatively determined that periodic competition among companies for the right to provide ambulance services offers a safe and effective means of encouraging fair and equitable private-sector participation.

(3) Therefore, in order to ensure the availability of state-of-the-art advanced life-support systems and ambulance systems, the General Assembly specifically delegates and grants to cities of the first class and second class the right and power to contract exclusively or otherwise, using competitive procurement methods, for the provision of emergency medical services and ambulance services for the city and to provide continuing supervision of those services.

(c) The General Assembly has determined that this chapter grants cities of the first class and second class broad authority regarding emergency and nonemergency medical services. The General Assembly has further determined that cities of the first class and second class should be allowed to enter into agreements with other cities within the county where they are located or with the county wherein they are located regarding emergency and nonemergency medical services. Therefore, cities of the first class and second class may enter into interlocal agreements with other cities located within the county wherein the city of the first class or second class is located, or with the county wherein the city of the first class or second class is located, and thereby exercise as a cooperative governmental unit all power granted to the city of the first class or second class by this chapter.

Acts of 1981 (Ex. Sess.), Act 23, § 2; Acts of 1987, Act 407, § 3; Acts of 1989, Act 196, § 1.

Formerly A.S.A. 1947, § 19–5902.

Library References

Automobiles ⇐71.
Westlaw Key Number Search: 48Ak71.
C.J.S. Motor Vehicles § 173.

§ 14–266–103. Definitions

As used in this chapter, unless the context otherwise requires:

(1) "Emergency medical services" means the transportation and emergency medical technician care provided the critically ill or injured prior to arrival at a medical facility by a certified emergency medical technician (EMT) and within a medical facility subject to the individual approval of the medical staff and governing board of that facility.

(2) "Nonemergency ambulance services" means the transport in a motor vehicle to or from medical facilities including, but not limited to, hospitals,

nursing homes, physicians' offices, and other health care facilities of persons who are infirm or injured and who are transported in a reclining position; however, not-for-hire on a fee-for-service basis transportation furnished by licensed hospitals and licensed nursing homes to their own admitted patients or residents and individual not-for-hire transportation shall be excluded.

Acts of 1981 (Ex. Sess.), Act 23, § 3.

Formerly A.S.A. 1947, § 19–5903.

Cross References

Property, medical, nursing, hospital, and ambulance service lien act, ambulance service provider defined, see § 18–46–102.

§ 14–266–104. Interpretation and applicability of provisions

(a) Nothing in this chapter shall apply to nonprofit or hospital-based ambulance services operated on November 1, 1981, by a nonprofit organization or an Arkansas hospital licensed by the Department of Health.

(b) Nothing in this chapter shall be construed as expanding the authority of emergency medical technicians or other ambulance personnel beyond the authority existing under applicable Arkansas law.

(c) Nothing in this chapter shall be construed to give cities the power to regulate, in any way, regional or state emergency medical service communication facilities.

Acts of 1981 (Ex. Sess.), Act 23, § 3.

Formerly A.S.A. 1947, § 19–5903.

Library References

Automobiles ⇔77.
Westlaw Key Number Search: 48Ak77.
C.J.S. Motor Vehicles §§ 174, 179 to 183.

§ 14–266–105. Powers generally

(a) Cities of the first class and second class are authorized:

(1) To enact and establish standards, rules, and regulations which are equal to or greater than those established by the state concerning emergency medical services, as defined in this chapter, and emergency medical technicians, emergency and nonemergency ambulances, and ambulance companies, as defined under §§ 20–13–201 — 20–13–209 and 20–13–211; however, the standards, rules, and regulations shall not be less than those established by this state;

(2) To establish, own, operate, regulate, control, manage, permit, franchise, license, and contract with, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, and their relative properties, facilities, equipment, personnel, and any and all aspects attendant to emergency medical services and ambulance operations, whether municipally owned or otherwise, including, but not limited to, rates, fees, charges, or

other assessments as the cities consider proper to provide for the health, safety, and welfare of their citizens;

(3) To establish an Emergency Medical Health Care Facilities Board, hereinafter called "Emergency Medical Services Board" or "EMS Board", under §§ 14-137-101 — 14-137-123, and to exercise all the powers conferred in this chapter and the power conferred under §§ 14-137-101 — 14-137-123, either alone or in conjunction with the EMS Board;

(4) To provide emergency medical services to its residents and to the residents of the county, surrounding counties, and municipalities within those counties, but only if the governing bodies of the counties and municipalities request and authorize the service under §§ 14-14-101, 14-14-103 — 14-14-110 or §§ 25-20-101 — 25-20-108;

(5) To regulate all intracity patient transports and intercity and intracounty patient transports originating from within the regulating city. However, this chapter shall not restrict or allow local regulation of not-for-hire on a fee-for-service basis transportation, any intercounty patient transports, or intercity patient transports to or from medical facilities within the regulating city originating from anywhere outside the regulating city.

(b)(1) A city regulating ambulance companies which contracts with private ambulance companies under this chapter shall permit those companies to offer ambulance services outside its boundaries.

(2) A city regulating ambulance services, which municipally owns or operates those services, shall provide ambulance services to those surrounding areas whose governing bodies request and authorize those services but only if mutually agreeable contracts can be reached to provide those services.

(3) All direct and indirect costs of extending those services shall be borne entirely by patient user fees or subsidies provided by the patient, municipality, or county to whom those services are rendered.

(4) In no event shall the city extending ambulance services beyond its boundaries be required in any manner to subsidize or otherwise extend financial support to render those services.

(c) The city shall have the same authority to regulate nonemergency ambulance services.

Acts of 1981 (Ex. Sess.), Act 23, § 3; Acts of 1989, Act 196, § 2.

Formerly A.S.A. 1947, § 19-5903.

Library References

Automobiles ⇐71, 72.
Westlaw Key Number Searches: 48Ak71; 48Ak72.
C.J.S. Motor Vehicles § 173.

§ 14-266-106. EMS Board; powers and duties

(a) In addition to the powers granted pursuant to §§ 14-137-101 — 14-137-123, the EMS Board, unless limited by the governing body of the city, shall have unlimited authority, by negotiation or by bidding, to own, acquire, lease, construct, contract, operate, manage, improve, extend, maintain, control, Added at Agenda Session 4/25/06

MAYOR'S AGENDA FORM

D.3. New Business

FOR: City Council Meeting of: May 2, 2006

FROM: MAYOR DAN COODY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance amending Title XV: Unified Development Code, to extend the protections of the Tree Ordinance to the completion of the residential construction process citywide.

APPROVED FOR AGENDA:

Dan Coody
DAN COODY, Mayor

4/25/06
Date

D. J. Whit
DAVID J. WHITAKER,
Assistant City Attorney

4/25/2006
Date

Left on the First reading 5/2/06

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Mayor Coody
CC: City Council
FROM: David J. Whitaker, Assistant City Attorney
DATE: April 25, 2006
RE: Amendments to Extend Tree Preservation to Residential Builders

Attached is the draft Ordinance that you requested in order to extend the protections of the Tree Ordinance through to the completion of the residential construction process *citywide*, instead of only in the Hillside/Hilltop Overlay District. The new language would require anyone applying for a Building Permit to build or expand the footprint of a residential structure anywhere in the City of Fayetteville to abide by the requirements of Chapter 167, Tree Preservation and Protection. It would not apply to "residential remodeling or renovation projects that do not expand the footprint of an existing structure."

It **does not** regulate a homeowner who may wish to thin, prune, or entirely remove trees from his or her property once the construction process is complete and possession of the property has been transferred to the homeowner. It is important not to lose sight of the fact that Chapter 167 is part of the Unified ***Development*** Code, and with the exemption contained in §167.04(L), only regulates the development of residential lots, not the subsequent behavior of individual homeowners.

As drafted, the amendments will not substantially add to the administrative burden of residential builders. In addition to the information already required to obtain a Building Permit, the applicant would be allowed to submit the shorter, simplified Abbreviated Tree Preservation Plan set forth in §167.04(H)(3).

ORDINANCE NO. ______

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE, TO PROVIDE AMENDMENTS TO CERTAIN PROVISIONS CONCERNING TREE PRESERVATION AND PROTECTION.

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

Section 1. That §167.04(A) is hereby repealed, and the following is inserted in its stead:

(A) Applicability. The provisions of this section shall apply to all proposed Subdivisions, Large Scale Developments, and other developments as set forth in Subsections (1) through (5) below. The provisions of this section shall not apply to residential remodeling or renovation projects that do not expand the footprint of an existing structure. Planned Zoning Districts should meet the percent minimum tree canopy based upon their primary use, but may be allowed a lesser tree canopy requirement as part of the overall Master Plan approved by the City Council.

Section 2. That §167.04(A)(3) is hereby repealed, and the following is inserted in its stead:

(3) Building Permits. Tree preservation requirements apply to all Building Permit applications, with the exception that residential remodeling or renovation projects that do not expand the footprint of an existing structure are expressly exempt from tree preservation requirements. An Abbreviated Tree Preservation Plan, as set forth in §167.04(H)(3), shall be submitted with the application for Building Permits on projects that are not required to go through the Subdivision or Large Scale Development process. There shall be no land disturbance, grading or tree removal until an Abbreviated Tree Preservation Plan has been submitted and approved, and the tree protection measures at the site inspected.

Section 3. That §167.04(C) is hereby repealed, and the following is inserted in its stead:

(C) ***Canopy area.*** In all new Subdivisions, Large Scale Developments, Industrial and Commercial Developments, and other developments as set forth in §167.04(A), trees shall be preserved as outlined in Table 1 under Percent Minimum Canopy, unless the Applicant has been approved for On-Site Mitigation or Off-Site Alternatives as set forth in subsections I. & J. below. The square foot percentage of canopy area required for preservation in new development is based on the total area of the property for which the Applicant is seeking approval, less the right-of-way and park land dedications. An Applicant shall not be required to plant trees in order to reach the Percent Minimum Canopy requirement on land where less than the minimum exists prior to development, unless trees have been removed.

PASSED and **APPROVED** this 2nd day of May, 2006.

APPROVED:

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: City Council
FROM: David J. Whitaker, Assistant City Attorney
DATE: April 26, 2006
RE: Supplemental Information for Tree Ordinance Amendment Item

I have attached some additional information in hopes of clarifying just what the proposed amendments to the Tree Preservation and Protection Ordinance would achieve. The first is a new version of the proposed Ordinance itself, with some further amendments requested by Mayor Coody, and recommended by City Attorney Kit Williams. The second is a representation of how the entire §167.04 (A), *Applicability,* (1-5) would look with the adoption of the proposed amendments.

If our Office can provide any other assistance, please do not hesitate to ask either Kit or myself.

ORDINANCE NO. ______

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE, TO PROVIDE AMENDMENTS TO CERTAIN PROVISIONS CONCERNING TREE PRESERVATION AND PROTECTION.

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

Section 1. That §167.04(A) is hereby repealed, and the following is inserted in its stead:

(A) Applicability. The provisions of this section shall apply to all proposed Subdivisions, Large Scale Developments, and other developments as set forth in Subsections (1) through (5) below. The provisions of this section shall not apply to residential remodeling or renovation projects that do not expand the footprint of an existing structure. Planned Zoning Districts should meet the percent minimum tree canopy based upon their primary use, but may be allowed a lesser tree canopy requirement as part of the overall Master Plan approved by the City Council.

Section 2. That §167.04(A)(3) is hereby repealed, and the following is inserted in its stead:

(3) **Building Permits.** Tree preservation requirements apply to all Building Permit applications, with the exception that residential remodeling or renovation projects that do not expand the footprint of an existing structure are expressly exempt from tree preservation requirements. However, once the City issues a Certificate of Occupancy to a homeowner, individual lot tree preservation areas shall not be binding upon such homeowner. An Abbreviated Tree Preservation Plan, as set forth in §167.04(H)(3), shall be submitted with the application for Building Permits on projects that are not required to go through the Subdivision or Large Scale Development process. There shall be no land disturbance, grading or tree removal until an Abbreviated Tree Preservation Plan has been submitted and approved, and the tree protection measures at the site inspected.

Section 3. That §167.04(C) is hereby repealed, and the following is inserted in its stead:

(C) *Canopy area.* In all new Subdivisions, Large Scale Developments, Industrial and Commercial Developments, and other developments as set forth in §167.04(A), trees shall be preserved as outlined in Table 1 under Percent Minimum Canopy, unless the Applicant has been approved for On-Site Mitigation or Off-Site Alternatives as set forth in subsections I. & J. below. The square foot percentage of canopy area required for preservation in new development is based on the total area of the property for which the Applicant is seeking approval, less the right-of-way - and park land dedications. An Applicant shall not be required to plant trees in order to reach the Percent Minimum Canopy requirement on land where less than the minimum exists prior to development, unless trees have been removed.

Section 4. That §167.04(F)(3) is hereby amended by inserting the following as subsection (b):

(b) Once the City issues a Certificate of Occupancy to the homeowner, individual lot tree preservation areas are not binding upon such homeowner. However, the permanent tree easements established for cluster development shall remain enforceable by the City.

PASSED and **APPROVED** this 2nd day of May, 2006.

APPROVED:

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

~~This is how §167.04 (A) (1) through (5) would read if the amendments were to be adopted.~~ **(Proposed changes are highlighted, and suggested amendments to the version presented at Agenda Session are denoted by underlining and strikethrough.)**

167.04 Tree Preservation And Protection During Development

(A) *Applicability.* The provisions of this section shall apply to all proposed Subdivisions, Large Scale Developments, and other developments as set forth in Subsections (1) through (5) below. The provisions of this section shall not apply to ~~residential~~ remodeling or renovation projects that do not expand the footprint of an existing structure. Planned Zoning Districts should meet the percent minimum tree canopy based upon their primary use, but may be allowed a lesser tree canopy requirement as part of the overall Master Plan approved by the City Council.

(1) *Subdivisions and large scale developments.* Applicants seeking approval of proposed subdivisions and large scale developments shall submit a site analysis plan, analysis report, and tree preservation plan with the preliminary plat or site plan. There shall be no land disturbance, grading, or tree removal until a tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(2) *Grading permit.* An abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for grading permits on projects that are not required to go through subdivision or large scale development process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(3) *Building permits.* Tree preservation requirements apply to all Building Permit applications, with the exception that ~~residential~~ remodeling or renovation projects that do not expand the footprint of an existing structure are expressly exempt from tree preservation requirements. However, once the City issues a Certificate of Occupancy to a homeowner, individual lot tree preservation areas shall not be binding upon such homeowner. An Abbreviated Tree Preservation Plan, as set forth in §167.04(H)(3), shall be submitted with the application for Building Permits on projects that are not required to go through the Subdivision or Large Scale Development process. There shall be no land disturbance, grading, or tree removal until an Abbreviated Tree

Preservation Plan has been submitted and approved, and the tree protection measures at the site inspected.

(4) *Parking lots.* Tree preservation requirements apply to all permit applications for the construction of parking lots with five or more spaces. An abbreviated tree preservation plan, as set forth in §167.04 (H)(3), shall be submitted with the application for permits on projects that are required to go through the subdivision or large scale development process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(5) *Hillside/Hilltop Overlay District.* Undeveloped land located within the Hillside/Hilltop Overlay District shall submit a site analysis plan, analysis report, and tree preservation plan with the preliminary plat or site plan. Single and two family residential development shall submit an abbreviated tree preservation and site plan at the time of obtaining a building permit. There shall be no land disturbance, grading, or tree removal until a tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

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

16-May-06
City Council Meeting Date

Jeremy Pate JP	Planning	Operations
Submitted By	Division	Department

Action Required:

C-PZD 06-1921: (Lazenby Phase II, 560): Submitted by Landtech Engineering for property located west of Razorback Road, north of 15th Street. The property is zoned R-PZD 03-04.00, a Residential Planned Zoning District, and contains approximately 1.34 acres. The request is to construct two structures for a total 8,400 square feet of commercial space.

$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 — Date: 4-28-06

City Attorney — Date: 4-28-06

Finance and Internal Service Director — Date: 5-1-06

Mayor — Date: 5/3/06

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 4/28/06

Received in Mayor's Office
ENTERED 4/28/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: April 26, 2006

Subject: Commercial Planned Zoning District for Lazenby Phase II (C-PZD 06-1921)

RECOMMENDATION

The Planning Commission voted to forward the subject request for an ordinance creating a Commercial Planned Zoning District (C-PZD) for Lazenby Phase II. This action would establish a unique zoning district for a commercial development on a 1.34-acre tract located west of Razorback Road, north of 15th Street.

BACKGROUND

The property is currently zoned R-PZD 03-04.00, a mixed-use Planned Zoning District for Lazenby. This R-PZD was approved by the City Council on November 18, 2003 and consisted of 6 residential apartment buildings (112 units, 168 bedrooms) and three commercial structures located along Razorback Road. The applicant obtained building permits for the residential structures and the completion of those structures is underway. In October of 2005, the applicant deeded right-of-way required by the Arkansas Highway and Transportation Department as part of a street expansion plan for Razorback Road. The additional right-of-way, plus required utility easements and the relocation of a water line from the State right-of-way resulted in the elimination of one commercial structure. Staff, therefore, could not permit the structures as approved by the Planning Commission and City Council.

The applicant requests a rezoning and large scale development approval for two commercial structures, consisting of a total 8,400 square feet and 72 parking spaces on the 1.34-acre property along Razorback Road not yet developed. Zoning criteria identifying permitted and conditional uses, building setbacks, bulk and area requirements and architectural guidelines are included within the project booklet provided by the applicant.

DISCUSSION

On April 24, 2006, the Planning Commission voted 8-0-0 in favor of forwarding this request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. ______

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 06-1921 LAZENBY PHASE II, LOCATED WEST OF RAZORBACK ROAD, NORTH OF 15TH STREET, CONTAINING APPROXIMATELY 1.34 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From R-PZD 03-04.00 to C-PZD 06-1921 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, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council indicated in Exhibit "B" attached hereto and made a part hereof.**

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"
C-PZD 06-1921

PART OF THE W 1/2, NE 1/4 OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID W 1/2, NE 1/4 THENCE SOUTH 878.30 FEET, THENCE WEST 124.80 FEET TO THE POINT OF BEGINNING. THENCE SOUTH 00°17'52" EAST, A DISTANCE OF 183.93 FEET; THENCE SOUTH 00°15'44" EAST, A DISTANCE OF 41.70 FEET; THENCE SOUTH 12°45'26" WEST, A DISTANCE OF 39.91 FEET; THENCE SOUTH 02°23'10" EAST, A DISTANCE OF 186.70 FEET; THENCE NORTH 88°48'23" WEST, A DISTANCE OF 106.84 FEET; THENCE NORTH 88°19'47" WEST, A DISTANCE OF 2.00 FEET; THENCE NORTH 00°50'00" WEST, A DISTANCE OF 234.17 FEET; THENCE SOUTH 89°42'40" WEST, A DISTANCE OF 30.30 FEET; THENCE NORTH 00°17'00" WEST, A DISTANCE OF 92.00 FEET; THENCE NORTH 56°59'59" WEST, A DISTANCE OF 28.73 FEET; THENCE NORTH 00°17'20" WEST, A DISTANCE OF 94.36 FEET; THENCE NORTH 71°24'33" EAST, A DISTANCE OF 40.21 FEET; THENCE EAST, A DISTANCE OF 129.33 FEET TO THE POINT OF BEGINNING. CONTAINING 58,483.90 SQUARE FEET OR 1.3426 ACRES, MORE OR LESS.

EXHIBIT "B"
C-PZD 06-1921

1. Planning Commission determination of street improvements. *Staff recommends the construction of a section of sidewalk measuring 10-feet in width, or as required by AHTD, adjacent to Razorback Road, through the proposed driveway. The applicant shall pay an assessment in the amount of $3 per square foot for a 10' sidewalk, or other as specified by AHTD, for the remaining length of the property prior to the issuance of a building permit.*
The Planning Commission voted in favor of the recommended street improvements.

2. Planning Commission determination of commercial design standards. *Staff finds that the buildings presented are further articulated than those originally approved by the Planning Commission and City Council as meeting Commercial Design Standards and finds this proposal meets that criteria.*
The Planning Commission voted in favor of commercial design standards.

3. Planning Commission determination of a waiver of a 5' greenspace required adjacent to the west property line, between the property line and the parking. *Staff recommends approval of the requested waiver as there is a 20' utility easement west of the parking area that will be maintained as green space.*
The Planning Commission voted in favor of the request to waive greenspace requirements adjacent to the west property line.

4. The water easement shall be represented on the easement plan as approved by the Engineering Division and recorded prior to issuance of a building permit.

5. Per the requirements of R-PZD 03-04.00, signage for the commercial structures shall be wall mounted only and shall be in compliance with the C district wall signage allowances as stated in Chapter 174 *Signs of the Unified Development Code.*

6. Unless specified herein, all 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.

7. 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.

8. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

9. No portion of any structure (i.e., awnings, overhangs, etc.) shall encroach into building setbacks.

10. Buildings shall be constructed as depicted in the building elevations in the booklet with the materials specified.

11. Tree species shall be in accordance with the requirements of the Unified Development Code and approved by the Urban Forester. Modification of species may be required due to the proximity of overhead electric lines.

12. The applicant shall comply with all conditions of approval for LSP 06-2016.

13. All requirements and conditions of approval of R-PZD 03-04.00, where applicable, shall remain in effect.

14. Upon City Council adoption of the proposed C-PZD, the applicant shall submit a revised project booklet and site plan to address the following:
    a. Modify all references to this proposal from a Residential PZD to a Commercial PZD.
    b. The Site Plan (Fig. 1), a combination of required Sheets 1, 2, and 3, shall be updated to reflect the permitted and conditional uses, bulk and area requirements, land use intensity, density requirements and Statement of Commitments as set forth on page 4 of the project booklet.
    c. Two State Plane Coordinates shall be shown on the site plan approved by the City Council and the applicant shall submit a copy of the legal description signed by the owner property.

15. 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.

16. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff 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.

17. 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).

18. 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.

19. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

20. 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 (letter of credit, bond, escrow) with the City 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.

Fayetteville ARKANSAS

PC Meeting of April 24, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Subdivision Committee
FROM:	Suzanne Morgan, Current Planner
	Matt Casey, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~April 17, 2006~~ ***Updated April 27, 2006***

C-PZD 06-1921: Planned Zoning District (LAZENBY PHASE II, 560): Submitted by LANDTECH ENGINEERING for property located at RAZORBACK ROAD, N OF 15TH STREET. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 1.34 acres. The request is for 2 buildings with office, retail and restaurant space totaling 8,400 s.f.

Planner: SUZANNE MORGAN

Findings:

Property Description & Background: The applicant requests a rezoning and large scale development approval for two commercial structures, consisting of a total 8,400 square feet, along Razorback Road. The property is currently zoned R-PZD 03-04.00, a mixed-use Planned Zoning District for Lazenby. This R-PZD was approved by the City Council on November 18, 2003 and consisted of 6 residential apartment buildings (112 units, 168 bedrooms) and three commercial structures located along Razorback Road. Per ordinance requirements, the applicant is granted one year to pull the necessary permits for the construction of all residential and commercial structures. By November 18, 2004, all permits had not been obtained; therefore the applicant requested and received a one-year approval extension from the Planning Commission.

Permits for all residential structures have been issued and work on these structures is being completed. The applicant submitted permits for the final three structures along Razorback Road from August to the beginning of November 2005. In October of 2005, the applicant deeded right-of-way that was required by the Arkansas Highway and Transportation Department as part of a street expansion plan for Razorback Road. This right-of-way was 7 feet to 14 feet in excess of that required by the Master Street Plan. The additional right-of-way, plus required utility easements and the relocation of a water line from the State right-of-way resulted in the elimination of the southern commercial structure. Therefore, staff could not permit the structures as approved by the Planning Commission and City Council. Had the project not expired, Planning Commission and City Council approval would be necessary to modify the approved R-PZD. Therefore, the applicant has submitted an application for approval of a C-PZD for the 1.34-acre portion of property not yet developed.

The current application is for a rezoning of only a portion of the overall R-PZD. When the original R-PZD was approved, the Ordinance did not require the establishment of specific zoning criteria, such as minimum lot width, minimum lot area, etc. Instead, the development was required to comply with the requirements set forth on the approved site plan and any variation required City Council approval. Unlike the original zoning approval, the applicant has proposed specific zoning criteria for the subject 1.34 acres. The remainder of the overall site (containing approximately 6.32 acres) will abide by the approval of the originally approved R-PZD. The applicant has received approval to subdivide the 1.34-acres from the overall property, subject to approval of the requested C-PZD.

Proposal: The application proposed two commercial buildings and 72 parking spaces on the 1.34-acre property. The structures will consist of 3,200 square feet and 5,200 square feet. Modifications from the originally approved R-PZD and the current proposal are as follows:

1. The removal of one 5,000 square foot structure adjacent to Razorback Road. This structure was placed adjacent to the building setback to screen the parking lot from the right-of-way. However, the additional right-of-way and utility easements required by the State eliminated the previously approved 5,000 square foot building. The addition of a 2' planted berm adjacent to Razorback Road and a 41' greenspace adjacent to Razorback Road where the former 5,000 sq. ft. structure was originally approved is proposed. This will screen the proposed parking area, which is allowed within utility easements.
2. The addition of 16 parking spaces. The proposed parking is compliant with the requirements of the Unified Development Code.
3. The applicant has made significant modifications to the building elevations than the elevations previously approved to increase compatibility to surrounding developments and present better articulation towards the public right-of-way. Full-length glass windows and doors were replaced by smaller windows with a brick trim along the bottom of the wall. Additional brick columns were added to break-up long rows of windows, and the rear (west) elevations of each building have been modified from metal to brick.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	State of Arkansas Revenue Office	I-1, Light Industrial/Heavy Commercial
South	University of Arkansas Baum Stadium, associated parking lot	I-1, Light Industrial/Heavy Commercial I-2, General Industrial
East	Hog Country Distributors	I-1, Light Industrial/Heavy Commercial
West	Multi-family Residential	R-PZD 03-04.00

Process: The purpose of the subject request is for a rezoning and development approval. Approval of the Residential Planned Zoning District would effectively rezone only the 1.34-acre portion of the property based on the engineered plans and information provided. The remainder of the property is bound by the regulations of R-PZD 03-04.00.

Bulk and area criteria: Attached to the staff report (Exhibit A), following the conditions of approval, staff has provided the zoning criteria for the subject Planning Area.

Water & Sewer: Sanitary sewer is available on the site. There is an 8" sewer line located within the development. There is also a 24" sewer main along Razorback Road. Sanitary sewer shall be extended to Tract B prior to recordation of the lot split/easement plat and the issuance of a building permit for either commercial structure.

Public water is adjacent to the site. There is an 8" waterline along Razorback Road. Improvements to the water system have already been made within this development.

Adjacent Master Street Plan Streets: The site has access to Razorback Road (Principal Arterial). Razorback Road is currently under construction for widening. This work is being done by the Arkansas State Highway and Transportation Department.

Street Improvements: The approved R-PZD 03-04.00 required the following street improvements:

> *The State Highway Department has indicated that no improvements to Hwy 112 in this location be made at this time. Staff is recommending that the applicant install six-foot sidewalks along the property's frontage onto Hwy 112, to be installed at the right-of-way line. In addition, street trees and a continuous planting of shrubs are proposed to screen the parking adjacent to the right-of-way.*

At this time, staff recommends that the applicant contribute money in lieu of sidewalk construction adjacent to Razorback Road for the length of the subject property. The sidewalk is 10' in this location, based on the requirements set forth by AHTD and the City of Fayetteville.

Tree Preservation: A Tree Preservation Waiver has been submitted and approved by the Urban Forester. No trees exist on the site for Phase II of this development.

Parks: No residential structures are proposed for Phase II of Lazenby development. All required fees for parkland of the originally approved PZD have been paid.

Public Comment: Staff has not received any public comment regarding this development.

Recommendation: Staff recommends forwarding the Residential Planned Zoning District for Lazenby Phase II (C-PZD 06-1921) to the City Council with a recommendation of approval with the following items to address:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the construction of a section of sidewalk measuring 10-feet in width, or as required by AHTD, adjacent to Razorback Road, through the proposed driveway. The applicant shall pay an assessment in the amount of $3 per square foot for a 10' sidewalk, or other as specified by AHTD, for the remaining length of the property prior to the issuance of a building permit.*
The Planning Commission voted in favor of the recommended street improvements.

2. Planning Commission determination of commercial design standards. *Staff finds that the buildings presented are further articulated than those originally approved by the Planning Commission and City Council as meeting Commercial Design Standards and finds this proposal meets that criteria.*
The Planning Commission voted in favor of commercial design standards.

3. Planning Commission determination of a waiver of a 5' greenspace required adjacent to the west property line, between the property line and the parking. *Staff recommends approval of the requested waiver as there is a 20' utility easement west of the parking area that will be maintained as green space.*
The Planning Commission voted in favor of the request to waive greenspace requirements adjacent to the west property line.

4. The water easement shall be represented on the easement plan as approved by the Engineering Division and recorded prior to issuance of a building permit.

5. Per the requirements of R-PZD 03-04.00, signage for the commercial structures shall be wall mounted only and shall be in compliance with the C district wall signage allowances as stated in Chapter 174 *Signs of the Unified Development Code.*

6. Unless specified herein, all 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.

7. 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.

8. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

9. No portion of any structure (i.e., awnings, overhangs, etc.) shall encroach into building setbacks.

10. Buildings shall be constructed as depicted in the building elevations in the booklet with the materials specified.

11. Tree species shall be in accordance with the requirements of the Unified Development Code and approved by the Urban Forester. Modification of species may be required due to the proximity of overhead electric lines.

12. ~~The applicant shall include a note on the site plan that all parking shall be shared between the commercial and residential uses on Tracts A and C.~~ ***The applicant has complied with this condition of approval.***

13. ~~The civil drawings shall be updated to reflect the document number dedicating additional right-of-way to the Arkansas Highway and Transportation Department.~~ ***The applicant has complied with this condition of approval.***

14. ~~The civil drawings shall be updated to reflect the existing and proposed easements as shown on the approved lot split / revised easement plat, LSP 06-2016.~~ ***The applicant has complied with this condition of approval.***

15. ~~The Landscape Plan shall be revised to address those comments on the attached Landscape Plan Review.~~ ***The applicant has complied with this condition of approval.***

16. The applicant shall comply with all conditions of approval for LSP 06-2016.

17. All requirements and conditions of approval of R-PZD 03-04.00, where applicable, shall remain in effect.

18. **~~Prior to City Council consideration, the applicant shall make all necessary modifications to the project booklet and civil drawings as required by the Planning Commission.~~** ***Upon City Council adoption of the proposed C-PZD, the applicant shall submit a revised project booklet and site plan that modifies all references to this proposal from a Residential PZD to a Commercial PZD; all references to the existing zoning or original project shall be referenced R-PZD; the Permitted Uses as shown on the Site Plan shall be revised to reflect those listed on page 4 of the project booklet.***

19. ***Two State Plan Coordinates shall be shown on the site plan approved by the City Council and the applicant shall submit a copy of the legal description signed by the owner property.***

Standard Conditions of Approval:

20. 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.

21. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff 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.

22. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

23. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

24. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

25. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
    b. Separate easement plat for this project that shall include the tree preservation area;
    c. Project Disk with all final revisions;
    d. Completion of all required improvements or the placement of a surety (letter of credit, bond, escrow) with the City 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: Required YES

✓ Fwd to CC ❒ Denied ❒ Tabled

Meeting Date: **April 24, 2006**

Motion: **Clark**
Second: **Oster**
Vote: **8-0-0**

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 ______________________

Exhibit "A"

Commercial Planning Area Zoning Criteria

AREA: 1.34 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 5	Government Facilities
Unit 12	Offices, Studios and Related Services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial Recreation, Small Sites
Unit 24	Home occupations
Unit 29	Dance Halls

(C) *Density.* None (Not Applicable)

(D) *Bulk and area regulations.*

(1) *Lot width minimum.* None

(2) *Lot area minimum.* None

(E) *Setback requirements.*

Front	Side	Rear
50'	20'	12'

(F) *Height.* Maximum 35 feet.

(G) *Building area.* Maximum 17 % of the site.

(H) *Maximum Intensity:*
10,000 sq. ft. non-residential use

(I) *Architectural Design Standards:*
Reference the Project Booklet

(J) *Landscaping Requirements:*
Landscaping shall comply with the Unified Development Code.

(K) *Parking Requirements:* Parking shall comply with the requirements of the Unified Development Code. All parking shall be shared between the commercial and residential uses on Tracts A and C.

Findings associated with C-PZD 06-1921

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 Planned Zoning District criteria established by the City Council. The originally approved PZD provided a development with a mixture of uses, both commercial and residential. The applicant requests approval of this C-PZD in order to provide the commercial space that compliments and supports the constructed residential dwellings.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be in 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 extension of public facilities, at the cost of the developer, but would not adversely affect public services.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The proposed development is compatible with the surrounding land uses which consist of residential, governmental, athletic and industrial uses. The Planning Commission and City Council have previously approved a mixed use development at this location with greater commercial space than now requested. Staff finds that no change in the surrounding area has resulted in the incompatibility of this project.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is adjacent to a Principal Arterial street, Razorback Road. The commercial use of this property is appropriate adjacent to such a street, as well

as compatible with the residential dwellings surrounding the property. No trees are being removed for the development of these structures and associated parking.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The rezoning of this property as approved by the Planning Commission and City Council in 2003 required improvements to pedestrian traffic with the installation of a sidewalk. The AHTD is in the process of initiating construction to improve this highway, which will alleviate any current traffic congestion. Staff finds that the addition of 8,400 square feet of commercial space, less than what was approved in 2003, will not create traffic congestion or a burden on the existing road network.

(7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A site plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Architectural elevations, materials and design standards are called out, in order to describe the appearance of the buildings as constructed. The development will comply with the requirements of the Unified Development Code, with the exception of waivers as noted within the conditions of approval.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that the proposed development and zoning criteria will not violate any existing ordinance requirement.

(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 proposal includes commercial development that provides a compatible use to the residential area to the west and the nearby University. The site design of the commercial and residential area has been investigated and revisited several times, with regard to preserving the existing natural wetlands and large tree-canopied area. All 96 required mitigation trees required with the overall development will be planted on-site, providing a potentially high percentage of canopy coverage in future years. The development of 1.34 acres adjacent to Razorback Road is designed to generally comply with the current ordinance requirements and will not result in the removal of any existing trees.

(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: The commercial area is located adjacent to a residential use as formerly approved by the Planning Commission and City Council. A detailed landscape plan has been provided. Screening in the form of a berm, street trees and a continuous planting of shrubs is proposed along Razorback Road.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The internal street circulation system has been designed to safely and adequately carry traffic into and out of the proposed parking areas. Sidewalks will be constructed along Razorback Road in conjunction with the street improvements. Sidewalks are also located within the development so as to provide continuous pedestrian access to Razorback Road and the proposed commercial development. The internal drives will end in cul-de-sacs which will not allow for through traffic but will provide for adequate access for service vehicles.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: The parking spaces required by both multifamily residential units (1/bedroom) and office/retail/restaurant use (1/300 SF, 1/250 SF, 1/100 SF) have been provided. Additional bicycle racks have been provided to accommodate multimodal transportation for both the residential units and the commercial uses proposed. All parking on the property is to be shared between the commercial and residential uses.

(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 residential uses to the west have been adequately buffered from adjacent Industrially-zoned properties. Open space requirements have been met pursuant to Ordinance requirements. Parking areas have been adequately screened from the public right-of-way.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are proposed in conformance with current standards.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are proposed in conformance with current standards.

(8) *Water.* As required by §166.03.

FINDING: Water service is proposed in conformance with current standards

(9) *Sewer.* As required by §166.03.

FINDING: Sewer service is proposed in conformance with current standards

(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: Private residential streets are proposed which conform to current standards. The applicant is providing an access easement from Razorback Road through the 1.34-acre tract to provide permanent access to the residential property.

(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 requests approval of this Commercial Planned Zoning District in order to construct the nonresidential facilities approved in the original Residential Planned Zoning District.

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan was approved with the original R-PZD. There are no existing trees on the subject 1.34-acre property.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Rendered elevations and a materials sample board has been submitted to the Planning Commission for review of Commercial Design Standards for the proposed commercial structures. The proposed elevations have been modified from the approved elevations to reflect additional articulation to the façades visible from the right-of-way as well as the substitution of metal for brick on the west elevations. Staff finds that the proposed elevations are improved from the previously approved application.

(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 has paid $44,016 in parks fees for the construction of the associated residential development. No parks fees are required for a commercial development.

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 for an overall mixed-use planned development comprised of multifamily residential, retail, restaurant and office uses surrounding an environmentally sensitive area. The rezoning of the property to a planned zoning district may be deemed appropriate due the enhancement and minimal disruption of existing natural features and amenities, comprehensive planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan, and providing flexibility and variety in the distribution of land uses, density of development and other matters typically governed by zoning district regulations.

(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: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report.* An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission.

(D) *C-PZD, Commercial Planned Zoning District*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

(a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.

(b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.

(c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.

(d) To encourage commercial development which is consistent with the city's General Plan.

(e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

(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) *Conditions.*

(a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

(b) Residential uses must be appropriate to the design of the project.

(c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

(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: The proposal provides an effective relationship of different land uses within a single overall development, including residential units, retail and office space. The wetlands on-site are not being significantly disturbed and have been protected from erosion and siltation during site development. The natural character of the wetlands will be retained, and for those trees removed in the construction process of the residential units, all required mitigation trees will be planted on-site, enhancing the canopy coverage in this area. Existing public street infrastructure is being utilized along Razorback Road, as well as water service that exists along the south boundary of the project.

(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: A Zoning Criteria Chart for the single Planning Area can be found as "Exhibit A" following the conditions of approval. The project booklet approved by the City Council 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 development within the proposed Master Development Plan is slated for commercial use.

<u>*Required Findings for Rezoning Request.</u>

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 consistent with the General Plan 2020 which designates the site Mixed Use. This is also consistent with current land use planning objectives, principles and policies and with land use and zoning plans.

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 that the site is currently zoned for industrial purposes with areas on the south and north sides utilized for student activities and public services, respectively. Surrounding uses are mixed in nature and are compatible with the proposed planned zoning district.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger and congestion, based on determinations made by the Fayetteville Police Department (see attached).

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 will provide residential dwelling units in an immediate area that currently is in close proximity to employment, but not residential uses. Based on Fayetteville Police Department findings, this increase in population will not alter the population density in a manner which undesirably increases the load on public services including schools, water, and sewer facilities (see attached).**

Fire - **This 1.30 acres is covered by Engine 6 at 900 Hollywood. It is 1mile from the station with an expected response time of 2.75 minutes. Measured hydrant flow in this area is 1760 gallons per minute. We do not anticipate calls for service on commercial buildings but typically this will not affect our call volume or response times.**

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
ARKANSAS

CC Meeting of May 16, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: City Council

From: Suzanne Morgan, Current Planner

Date: April 27, 2006

ITEM #: R-PZD 06-1921 (Lazenby Phase II)

Applicable Requirements:

✓	Off Street Parking
✓	Commercial Design Standards
NA	Buffers and Screening
NA	I-540 Design Overlay

Plan Checklist:

✓ submitted by applicant
✗ requested

Preliminary Submittal	Final Submittal	
		Off Street Parking and Loading
✓	✓	**wheel stops / curbs**
✗	✓	**irrigation**
✓	✓	**edged landscape beds indicated**
✓	✓	**species of plant material identified**
✗	✓	**size of plant material at time of installation indicated**
✗	✓	**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)*
✗	✓	**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)*
✓	✓	**soil amendments** *notes include that soil is amended and sod removed*
✓	✓	**mulching** *notes indicate mulching around trees and within landscape beds.*
✓	✓	**planting details according to Fayetteville's Landscape Manual**

Preliminary Submittal	Final Submittal	Commercial Design Standards
✓	✓	greenspace adjacent to street R.O.W. (15' wide)
✗	✓	street trees planted every 30' L.F. along R.O.W.
✓	✓	outdoor storage screened with landscaping
		Buffer Strips and Screening
		landscaped area (12' min.)
		fence required
		outdoor storage screened with landscaping
		non-residential landscape screen when adjacent to residential zones
		landscape requirement for setback reduction
		Overlay District Requirements
		greenspace adjacent to street R.O.W. (25' wide)
		street trees planted every 30'L.F. along R.O.W.
		25% of total site area left in greenspace (80% landscaped)
		parking lots and outdoor storage screened with landscaping

Recommendation: Staff recommends approval of the Landscape Plan revised to address comments addressed at the Planning Commission meeting.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

February 17, 2006

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 **C-PZD 06-1921 (Lazenby/Phase II, 560)** submitted by Landtech Engineering for property located at Razorback Road, N. of 15th Street would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

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

Sincerely,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher

Thru: Tony Johnson, Chief
Bud Thompson, Assistant Chief – Support
Kyle Curry, Battalion Chief – Fire Marshal

From: Captain Dale Riggins

Date: April 19, 2006

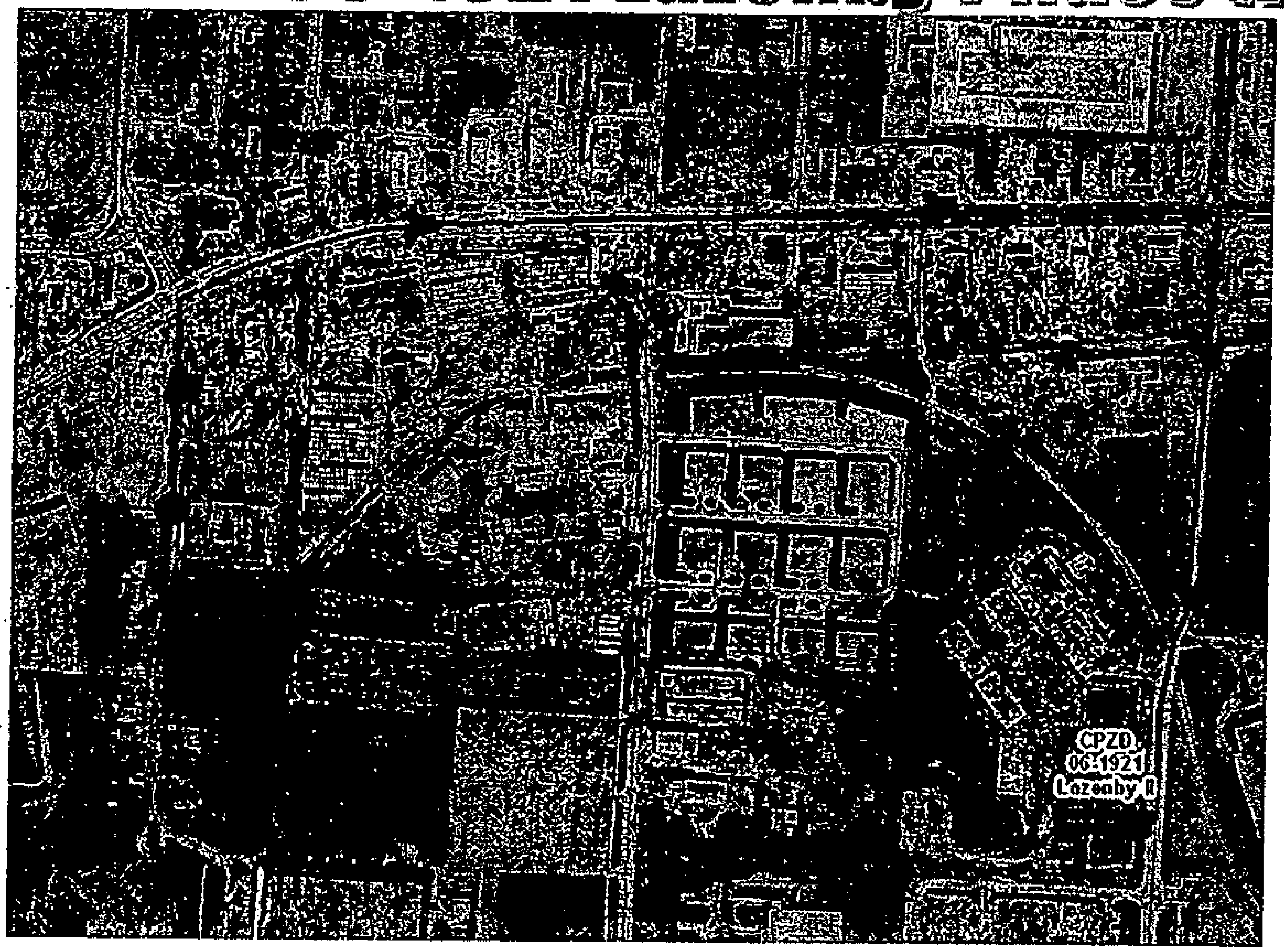
Re: April 18, 2006 Zoning Review – Fire Department Comments

C-PZD 06-1921 (Lazenby/Phase II, 560)
This 1.30 acres is covered by Engine 6 at 900 Hollywood.
It is 1mile from the station with an expected response time of 2.75 minutes.
Measured hydrant flow in this area is 1760 gallons per minute.
We do not anticipate calls for service on commercial buildings but typically this will not affect our call volume or response times.

Please feel free to contact me if you have any questions

Dale Riggins
Fayetteville Fire Department

C-PZD 06-1921 Lazenby Phase II



Fayetteville
ARKANSAS

PC Meeting of April 24, 2006

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: April 17, 2006

ITEM #: C-PZD 06-1921: Planned Zoning District (Lazenby/Phase II)

A Tree Preservation Waiver has been submitted and approved by the Urban Forester. No trees exist on the site for Phase II of this development.

Landtech Engineering, Inc.

Professional Land Planners

April 19, 2006

City of Fayetteville
Engineering Department
113 West Mountain
Fayetteville, Arkansas 72701

Attn: Ms Suzanne Morgan

RE: Waiver for Razorback Road Revised R-PZD

Dear Suzanne:

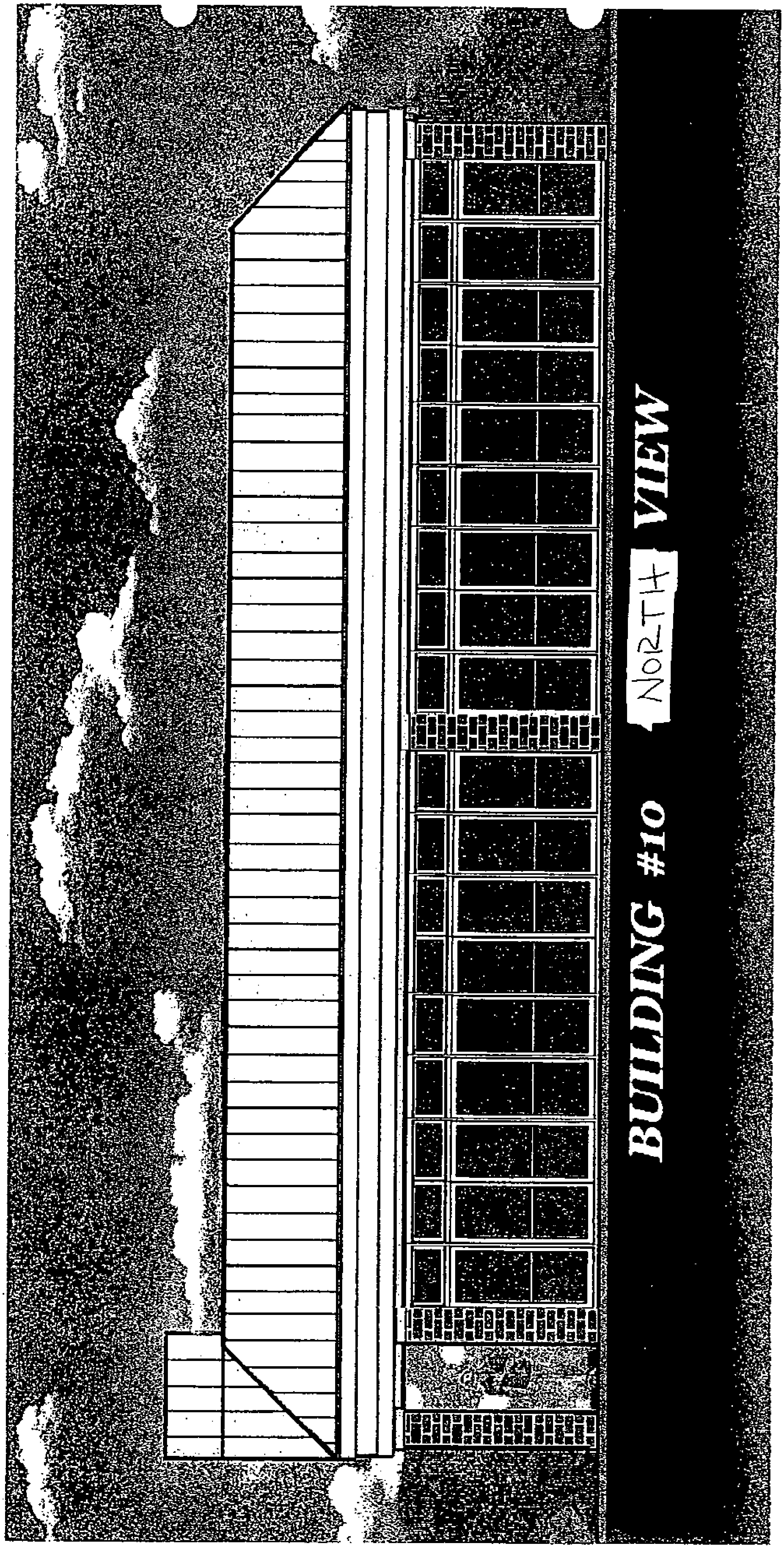
This letter is to request a waiver of the five-foot greenspace adjacent to the west property line of the above mention Revised R-PZD. There is a green space which varies from 12' to 18' between any buildings and parking along the west property line.

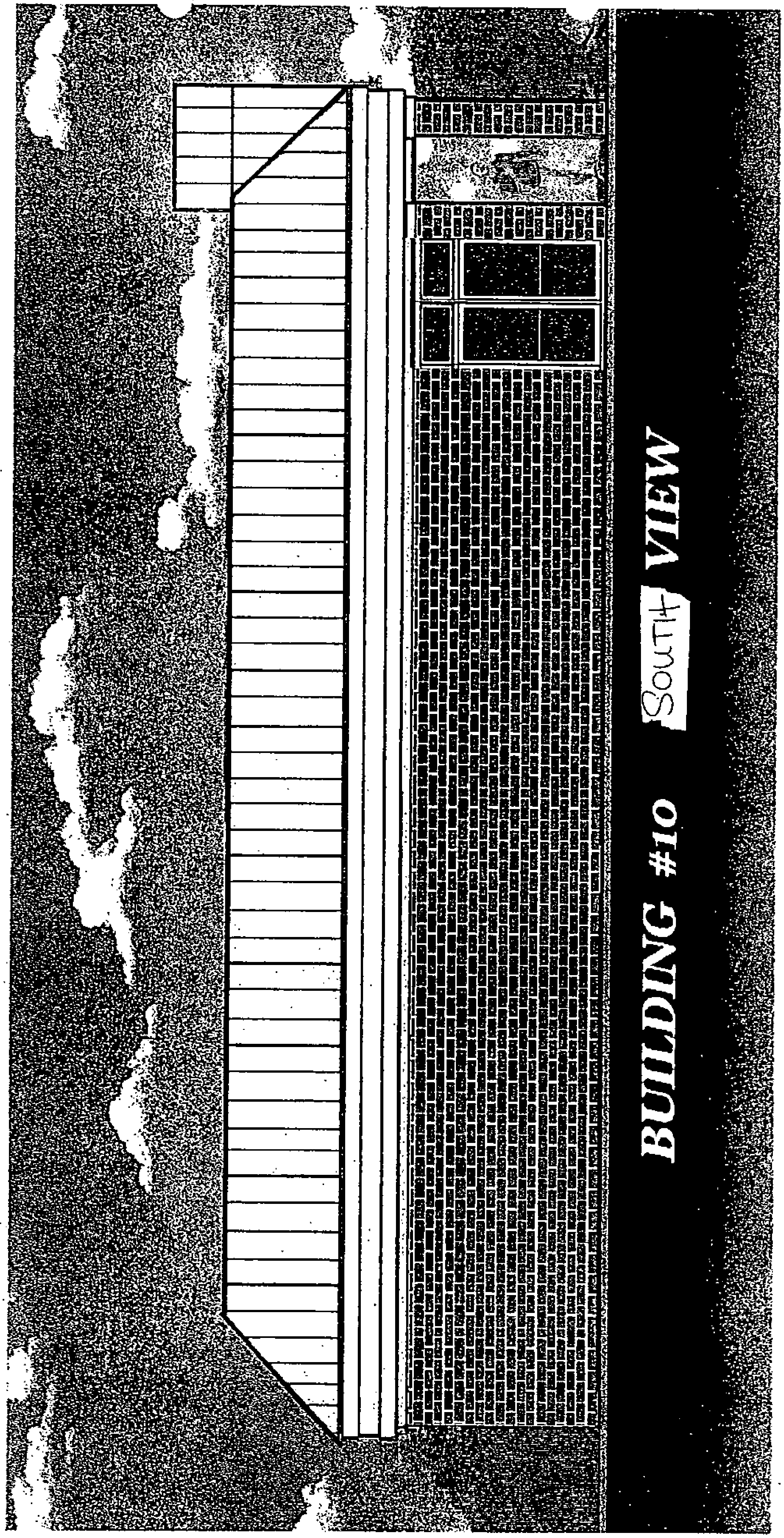
Sincerely,

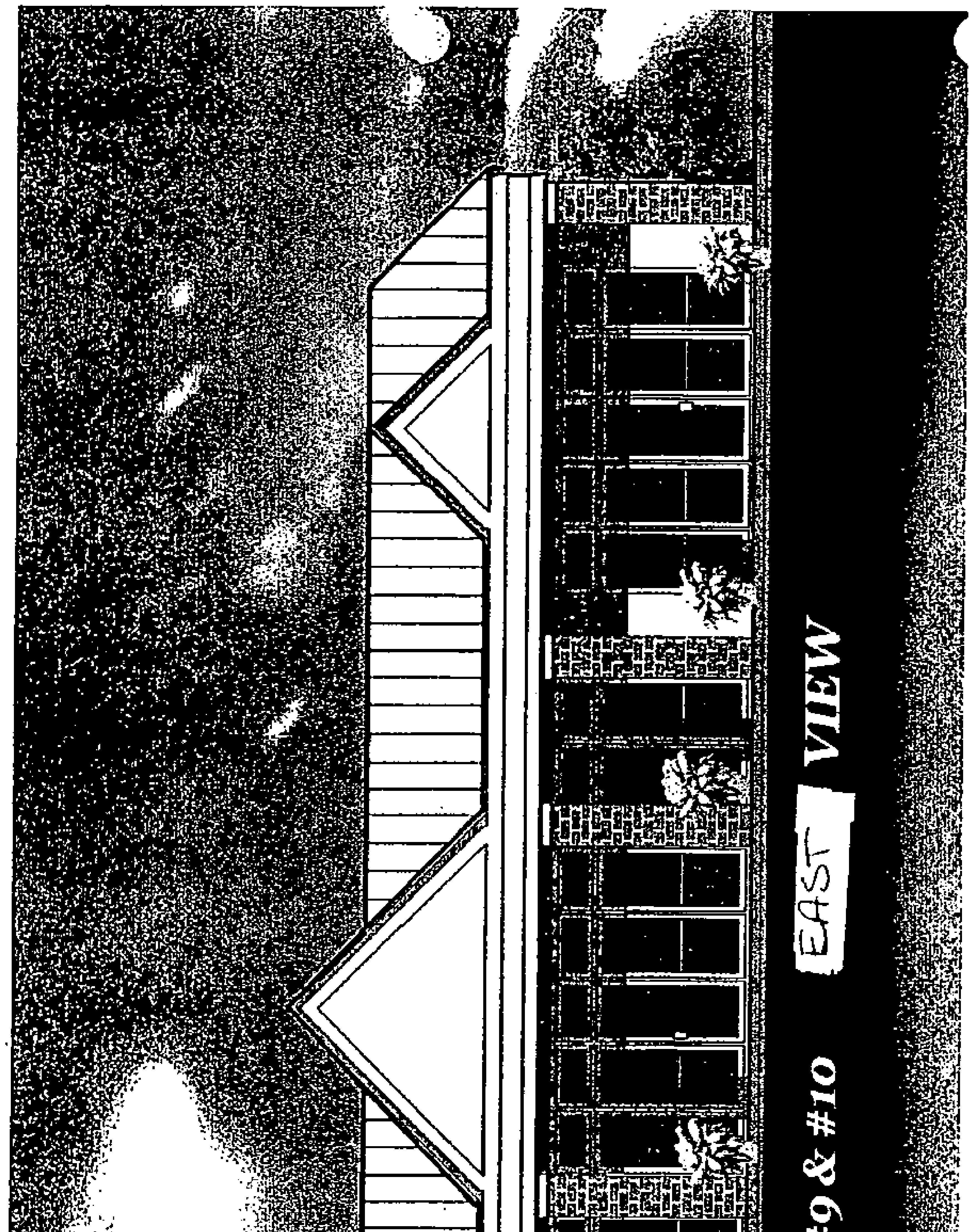
Leonard F. Gabbard, P.E.

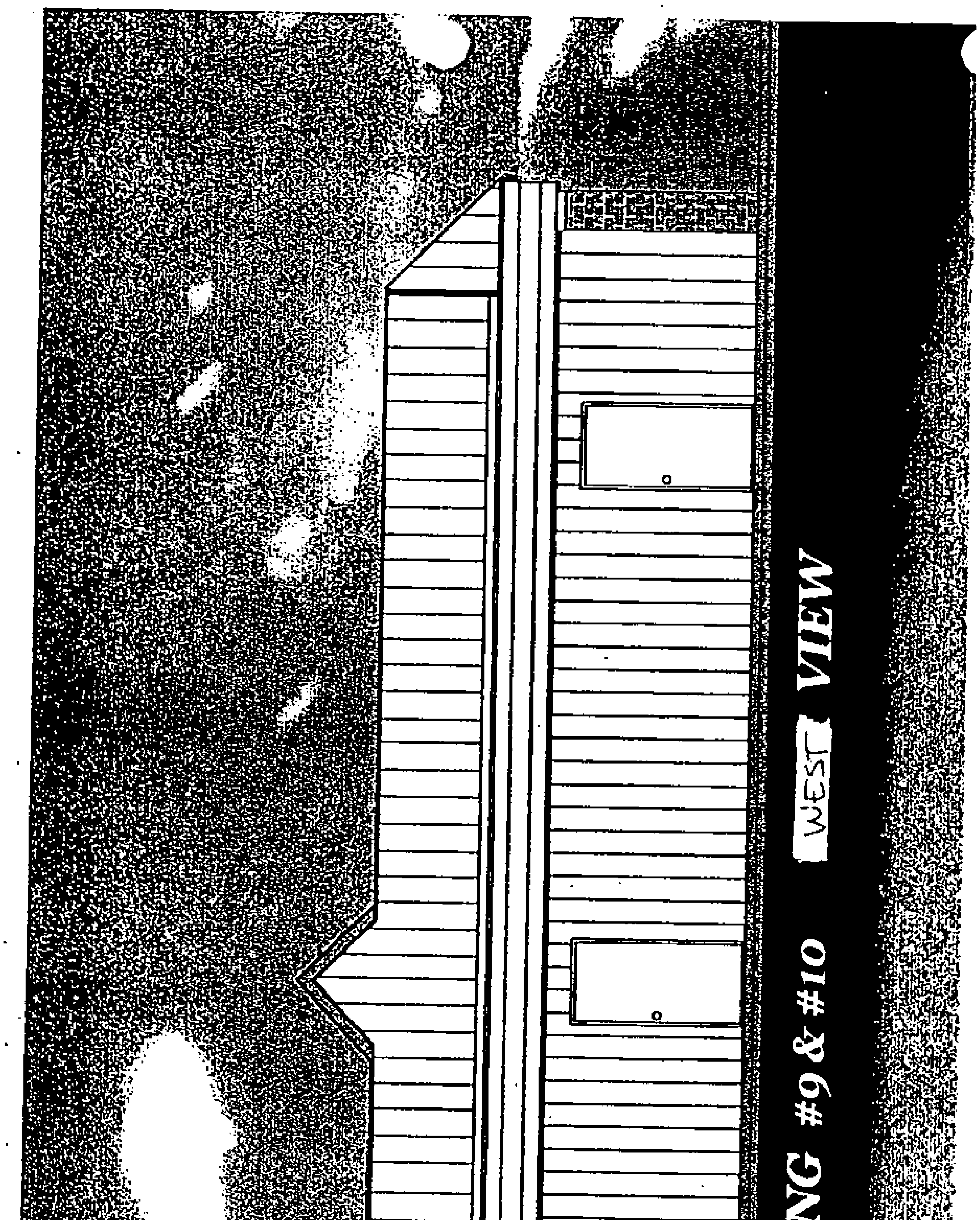
120 W. Emma Ave. • Springdale, Arkansas 72764-4305 • Telephone (479) 756-2772 • Fax (479) 756-6452

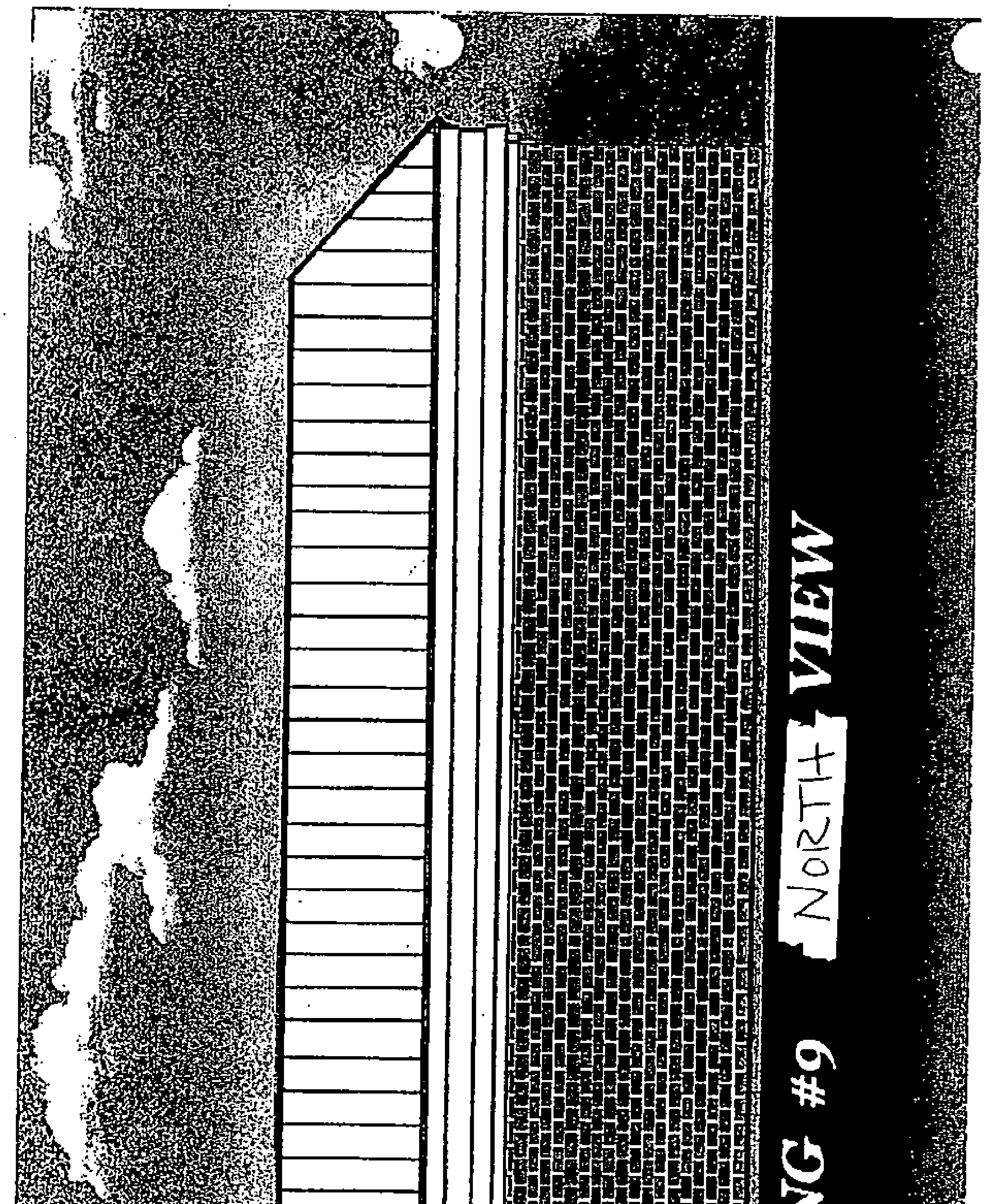
R-PZD 03-04.00
Approved Architectural Elevations

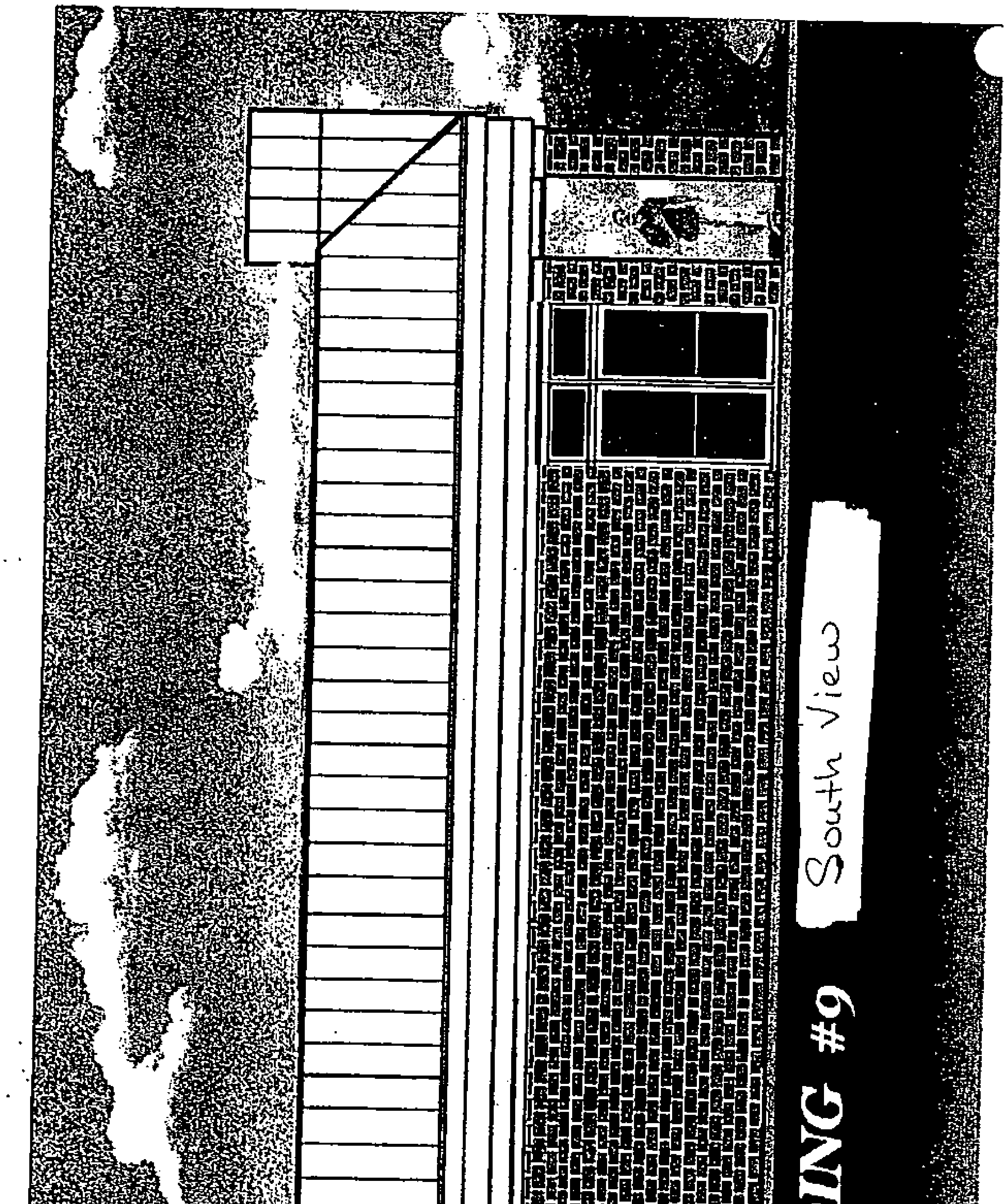

BUILDING #10 NORTH VIEW


BUILDING #10 SOUTH VIEW


BUILDING #9 & #10 EAST VIEW


BUILDING #9 & #10 WEST VIEW

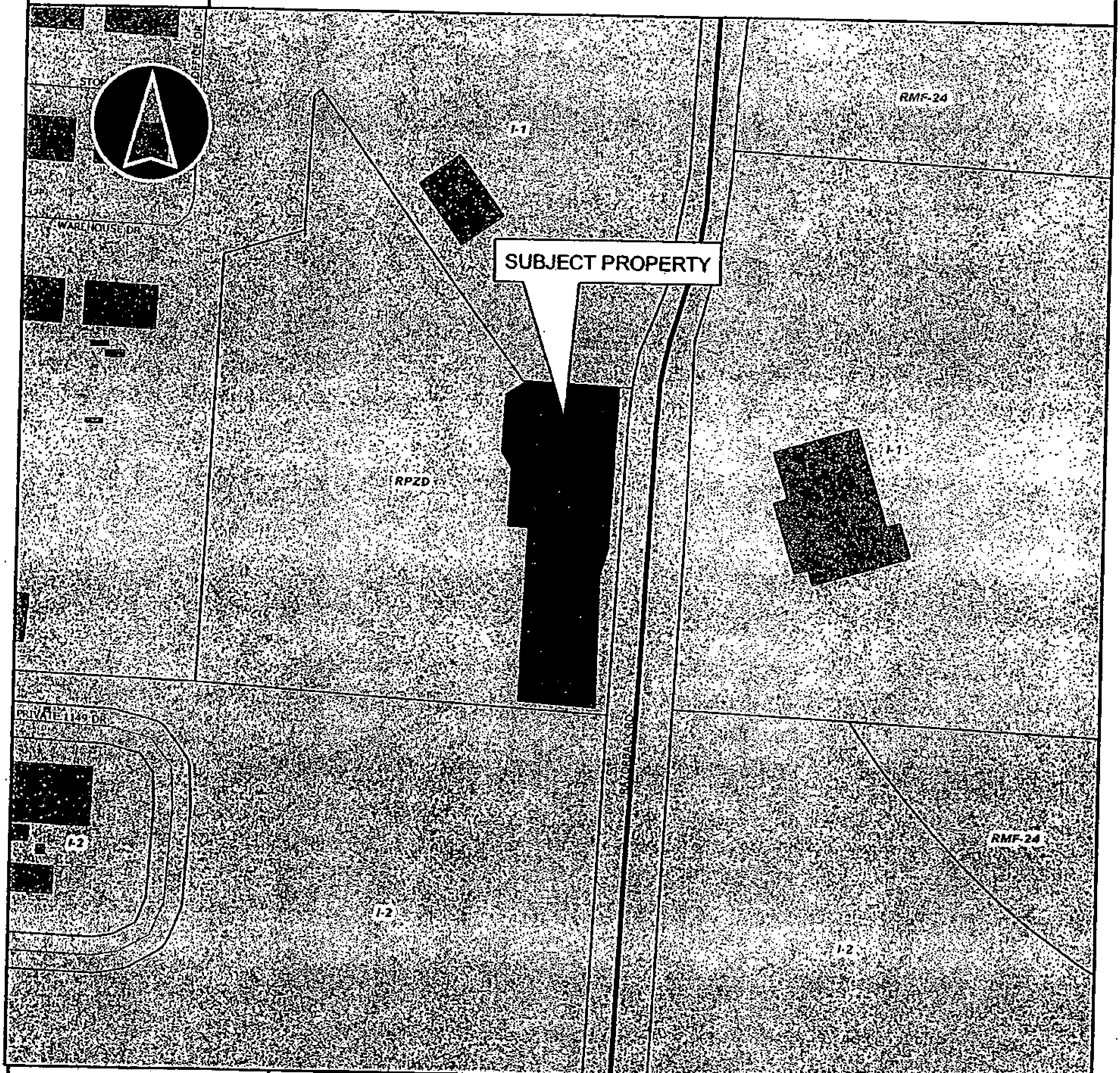

BUILDING #9 NORTH VIEW


BUILDING #9
South View

RPZD06-1921

Close Up View

LAZENBY PHASE II



Overview

Legend

Overlay District — FLOODWAY — 500 YEAR

— 100 YEAR — LIMIT OF STUDY

- - - BaseLine Profile

Fayetteville

Outside City

RPZD06-1921

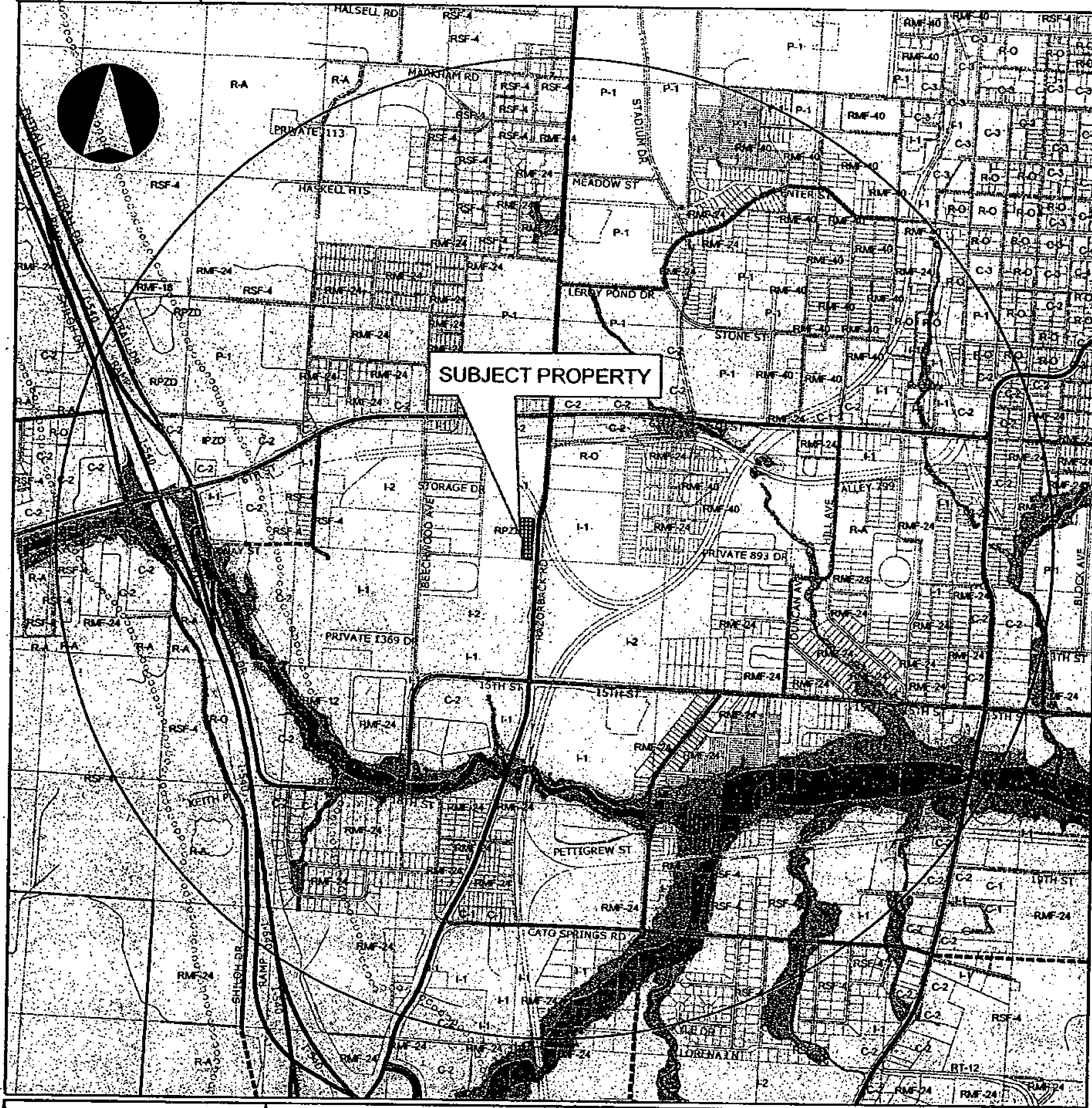
vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet

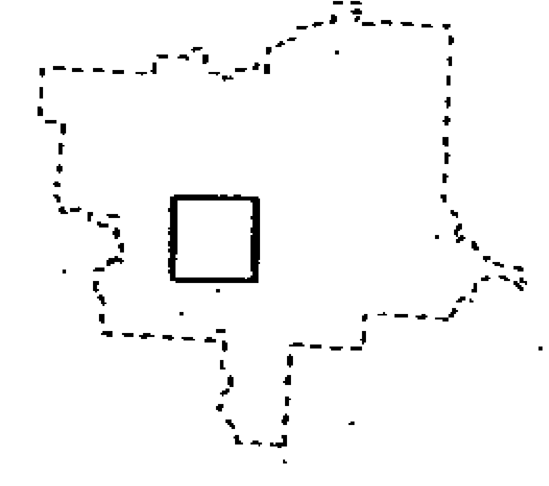
RPZD06-1921

One Mile View

LAZENBY PHASE II



Overview



Legend

Subject Property

RPZD06-1921

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

5/16/2006
City Council Meeting Date

Frank Johnson, Chief of Police		Police
Submitted By	Division	Department

Action Required:

Amend ordinance 115.04 to require pawnbrokers and pawnshops to upload their daily reports via the internet to the enity designated by the Fayetteville Police Department.

$6,348.00	$ 325,023.00	Materials and Supplies
Cost of this request	Category / Project Budget	Program Category / Project Name
1010-2940-5209.00	$ 58,448.00	Patrol
Account Number	Funds Used to Date	Program / Project Category Name
	$ 266,575.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Frank Johnson 4/27/06
Department Director Date

D. J. Whit 4/27/06
City Attorney Date

4-28-06
Finance and Internal Service Director Date

Dan Coody 4/28/06
Mayor Date

Previous Ordinance or Resolution # ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office
ENTERED 4/27/06 LB

Received in Mayor's Office
ENTERED 4/28/06

Comments:

Fayetteville
ARKANSAS

The City of Fayetteville, Arkansas

City Council Meeting Date: May 16, 2006

City Council Agenda Memo

To: Mayor Coody and members of the City Council

From: Frank Johnson, Chief of Police

Date: April 14, 2006

Subject: Amend Pawnbroker Ordinance 115.04

Recommendation:

City Council amends Ordinance 115.04 to require pawnbrokers or pawnshops upload their daily reports via internet to the entity designated by the Fayetteville Police Department.

Background:

Currently, Ordinance 115.04 requires pawnbrokers deliver a daily written report (pawn slips) to the Fayetteville Police Department detailing business transactions for the previous day. As a result, numerous pawn slips are compiled, and the information on each property item pawned must be entered manually into our computer system. This procedure obligates our police clerks to expend several hours of their day entering this data. These pawn records accumulate rapidly and become backlogged due to our clerks having other duties and responsibilities. In turn, this creates time sensitive issues for our property crimes investigators.

Discussion:

The Fayetteville Police Department would like to resolve these problems and become more efficient in the investigations of property related crimes by utilizing the Law Enforcement Database Search (L.E.A.D.S. online). L.E.A.D.S. online is a web based system used by pawn shops to enter property, and it provides investigators with a tool to investigate crimes involving property in a timely manner. This system will eliminate our clerks from entering data, and the information of the pawned property will be uploaded in real time as entered by the pawnbrokers. Since L.E.A.D.S. online is a browser-based system, pawn shop owners may subscribe to the program for free. However, there are some minimal software expenses associated with this system that pawnbrokers will incur. L.E.A.D.S. online requires pawnbrokers to have a personal computer with web access and a software program that is capable of recording information pertaining to every pawn transaction. We have spoken with the five pawnbrokers in Fayetteville and all have agreed to pay for any expenses to become compliant with L.E.A.D.S. online.

Budget Impact:

The Fayetteville Police Department's projected annual cost for L.E.A.D.S. online will be approximately $6348.00. This membership includes national search access, three years of searchable data, 1-8 user licenses, NCIC extract, 100 saved searches, ticket assistant and hit alerts to email and email enabled cellular phones. In 2006, the Fayetteville Police Department budgeted the money to fund this project, and L.E.A.D.S. online has been incorporated into the investigative response strategy for the Criminal Investigation Division.

113 WEST MOUNTAIN 72701
479-575-8330
479-575-8257 (Fax)

ORDINANCE NO. ______

AN ORDINANCE AMENDING CHAPTER 115: PAWNBROKERS, TO REQUIRE ONLINE DAILY REPORTING.

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

Section 1. That § 115.04 Daily Reports, is hereby repealed, and the following is inserted in its stead:

§ 115.04 Daily Reports
Every pawnbroker or pawnshop doing business in the City of Fayetteville, Arkansas, shall be required to upload via internet connection to the entity designated by the Fayetteville Police Department, information detailing all goods pawned, pledged, or left as security with the pawnbroker or pawnshop, within (1) business day of receipt.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ____________________________
DAN COODY, Mayor

ATTEST:

By: ____________________________
SONDRA SMITH, City Clerk

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

5/16/2006
City Council Meeting Date

Submitted By	Division	Department
Susan Thomas	Public Information	General Government

Action Required:

A resolution supporting the proposed location of a new Police Station for the City of Fayetteville Police Department

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

Budgeted Item ☐ Budget Adjustment Attached ☐

	Date
Department Director	4/28/06
City Attorney	5/1/06
Finance and Internal Service Director	5-1-06
Mayor	5/1/06

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 4/28/06

Received in Mayor's Office
ENTERED 5/1/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

City Council Memorandum

TO: Mayor and City Council

FROM: Susan B. Thomas, Public Information & Policy Advisor

DATE: April 25, 2006

SUBJECT: Police Station Location

Recent space needs assessments provided to the City of Fayetteville document that the Police Department, District Court and City Prosecutor have immediate space needs that cannot be accommodated by current space allocations. These current needs, in addition to the future space needs documented in the Wilson Estes report, prompted staff to begin the planning process for a new police station.[1] Before this planning process proceeds further, the Mayor and City Council need to direct staff as to the preferred location for the new station.

Division	Current Allocated Space	Current Space Needs (Gross)	Future Space Needs (Gross)
Court/Prosecutor	4,813	12,512	14,269
Police	22,229	43,454	55,040

While the Tyson property has been discussed as a potential location for the new station since City Council approved the purchase of that property in November 2004, new opportunities have arisen that enable the City to consider retaining Police and Court services in the downtown area. A new police station will require a substantial public investment by the City, and the decision before the Council is where the City should make this investment:

(1) South Fayetteville on the Tyson property; or
(2) Downtown alongside other core services.

This level of public investment is an important decision as it will have effects on the surrounding area through additional private investment and economic activity. Consideration should be given to the marketability of each site and the type of development that would likely occur at each site

1 The Wilson Estes report projected future space needs to 2025. However, Council should note that this projection is based on population and personnel. These future space needs are designed to serve a population of approximately 100,000 and a staff of 266 (Police, Court, and Prosecutor). Depending on future growth rates and changes in service provision, actual space needs may vary.

with and without this public investment.

In an assessment of potential locations for police stations, the Police Department considers the following planning criteria:

1. **Flexibility** to meet the needs of a growing community;
2. **Public accessibility** to contribute to a comfortable, civil, and respectful atmosphere;
3. **Serviceability** to allow for energy conservation for lighting, electrical, heating and air;
4. **Aesthetic qualities** to create an atmosphere of dignity and respect for the officers and public;
5. **Security** to provide for a safe environment for records, weapons, and evidence, and;
6. **Physical space** to accommodate the total number of police personnel until the year 2025.

Potentially, both locations would adequately address each of these criteria. Moreover, it should be noted that emergency response time is not related to the location of a police station as police officers respond to emergency calls for service from the field, not the station. From an efficiency and effectiveness perspective, both locations appear to be suitable for a new station.

While it is difficult to measure an exact comparison, the costs associated with constructing a police department are virtually the same for the Tyson property and downtown options. While it is true that a downtown location will require a parking deck, this investment or a very similar investment has been planned since 2000. The City in association with the Downtown Parking District, will likely at some point in the future construct a parking deck regardless of the City's decision on Police Station location.

If Council chooses to locate the new station downtown, staff recommends clearing the Tyson property to prepare it for development and selling all property except that which is needed for Fire Station #3. The income from this sale, along with the $250,000 saved in right-of-way acquisition costs for Huntsville-Happy Hollow intersection improvements and the estimated $230,000 saved in land acquisition costs for Fire Station #3, should ensure a net benefit for the City.

RESOLUTION NO. ______

A RESOLUTION SUPPORTING THE PROPOSED LOCATION OF A NEW POLICE STATION FOR THE FAYETTEVILLE POLICE DEPARTMENT.

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 supports locating a new police station for the Fayetteville Police Department at ______________________________.

PASSED and **APPROVED** this 16th day of May, 2006.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Susan Thomas, Public Information and Policy Advisor

FROM: Coy Hurd, Project Manager

DATE: May 2, 2006

SUBJECT: Budgetary information regarding proposed Joint Public Safety Facility

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I trust the following information will assist you in your efforts. Questions have been raised concerning the proposed Joint Public Safety Facility. One of the questions is: will the location of the facility affect the cost of construction? More specifically, what is the differential in cost when considering the Huntsville Road site versus a downtown site?

The site on Huntsville Road would certainly be easier for a contractor to stage the work. There would be plenty of room for parking and for storage on this twelve acre site. The downtown site would be constrained in this regard. If the downtown option is exercised, there would be opportunities to mitigate these constraints. Usually when faced with a tight site to bid, a project manager will develop a plan for parking and storage that will satisfy the concerns of the bidders. There may indeed be a difference in a bid price resulting from the different natures of the sites, but, my opinion is that this difference would be a very slight one if handled with forethought.

As far as utilities to the sites, the infrastructure is there (to both) already. There would not be much consideration on that accord. If the downtown site is chosen, the only upgrade would be the electrical. This would not be extraordinary. In both cases, utility work (onsite and off) would indeed be budgetary considerations, but not so compelling as is usually the case in such a major undertaking.

I have attached a forecast of costs for the construction of this facility, and in doing so, I believe that we have uncovered a chance for a significant cost savings (thanks to a suggestion from Steve Davis). As you see, the first item is the costly job of moving the City's Dispatch operation. This will certainly be problematic in either a move to a new facility at the Huntsville Road location or to a new building downtown. Steve's interesting suggestion is to leave Dispatch in-place. This idea would alleviate all manner of problems and would eliminate a large budgetary item. Spreadsheet One shows the costs of the project resulting from moving Dispatch, Spreadsheet Two shows the reduced cost of leaving it in place.

The forecasts included in these two spreadsheets were reached by historical perspective and by industry standards published in AIA Press' *Problem Seeking: An Architectural Programming Primer, Third Edition*. Please note that the issue of parking is not addressed in these forecasts. A few years ago, the City used off-site parking for staff during the construction of the Fayetteville Town Center. This added about $35,000 annually to the cost of the effort (year 2000 dollars).

JOINT PUBLIC SAFETY FACILITY

(BUDGET REFLECTS 2006 DOLLARS)

COST OF MOVING DISPATCH	$	1,500,000	
BUILDING COST	$	14,485,581	69,309 SF @ $209
FIXED EQUIPMENT	$	724,279	
SITE DEVELOPMENT	$	706,538	see detail below
TOTAL CONSTRUCTION COST	$	17,416,398	
DEMOLITION	$	47,576	
MOVEABLE EQUIPMENT	NOT IN BUDGET		
PROFESSIONAL FEE	$	724,279	5% of B.C.
CONTINGENCY	$	144,855	10% of B.C.
TOTAL BUDGET REQUIRED	$	18,333,108	

SITE DEVELOPMENT

PARKING	NOT IN BUDGET		
ROADWAYS	NOT IN BUDGET		
WALLS AND SCREENS	NOT IN BUDGET		
SIDEWALKS	$	120,123	
ON SITE UTILITIES	$	89,711	
OFF SITE UTILITIES	$	134,567	
STORM DRAINAGE	$	72,427	
LANDSCAPING	$	144,855	
OUTDOOR LIGHTING	$	144,855	
TOTAL SITE	$	706,538	Spreedsheet One: Dispatch Operation is moved.

JOINT PUBLIC SAFETY FACILITY

(BUDGET REFLECTS 2006 DOLLARS)

BUILDING COST	$	14,485,581	69,309 SF @ $209
FIXED EQUIPMENT	$	724,279	
SITE DEVELOPMENT	$	706,538	see detail below
TOTAL CONSTRUCTION COST	$	15,916,398	
DEMOLITION	$	47,576	
MOVEABLE EQUIPMENT	NOT IN BUDGET		
PROFESSIONAL FEE	$	724,279	5% of B.C.
CONTINGENCY	$	144,855	10% of B.C.
TOTAL BUDGET REQUIRED	$	16,833,108	

SITE DEVELOPMENT

PARKING	NOT IN BUDGET	
ROADWAYS	NOT IN BUDGET	
WALLS AND SCREENS	NOT IN BUDGET	
SIDEWALKS	$	120,123
ON SITE UTILITIES	$	89,711
OFF SITE UTILITIES	$	134,567
STORM DRAINAGE	$	72,427
LANDSCAPING	$	144,855
OUTDOOR LIGHTING	$	144,855
TOTAL SITE	$	706,538

Spreedsheet Two:
Dispatch Operation
is not moved.