

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
June 6, 2006**

A meeting of the Fayetteville City Council will be held on June 6, 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**

**Commemoration of the Fayetteville Public Library's 90th birthday - Louise Schaper,
Library Director.**

City Council voted to add an item to the Agenda on Consent as Item No. 13.

A. CONSENT:

- 1. Approval of the April 18, 2006, May 2, 2006 and May 16, 2006 City Council meetings minutes.**

APPROVED.

- 2. Community Development Block Grant:** A resolution approving the Community Development Block Grant (CDBG) Agreement for 2006 in the amount of \$653,244.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 95-06.

- 3. APAC-Arkansas, Inc. Change Order No. 2:** A resolution approving Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$277,505.60; and approving a Budget Adjustment in the amount of \$185,605.00 recognizing restored grant revenues.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 96-06.

4. **McClelland Consulting Engineers, Inc:** A resolution approving a three-year contract with McClelland Consulting Engineers, Inc. for airport engineering services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 97-06.

5. **Washington Regional Medical Center's Performance Bond:** A resolution to approve Washington Regional Medical Center's Performance Bond and Promissory Note to guarantee payment of an offsite improvement (traffic light) in the amount of \$110,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 98-06.

6. **Score Uniforms - Soccer Uniform Purchase:** A resolution awarding Bid #06-05 and approving the purchase of youth soccer uniforms from Score Uniforms in an amount not to exceed \$22,394.00 for the fall 2006 season and \$4,000.00 for spring 2007 season.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 99-06.

7. **RJN Group, Inc. Amendment No. 2:** A resolution approving contract Amendment #2 to the June 15, 2004 agreement for professional engineering services with RJN Group, Inc. in the amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington Sewer Basin; and approving a five percent (5%) contingency in the amount of \$6,200.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 100-06.

8. **AHTD Widening of Hwy 16/Hwy 71B East Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B East to Stone Bridge Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 101-06.

9. **AHTD Widening of Hwy 112 from Hwy 112 Spur North Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 112 from Highway 112 Spur North.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 102-06.

10. **Wheeler Lumber, LLC:** A resolution approving the award of Bid #06-37 for the construction and delivery of the Crown Trail Bridge to Wheeler Lumber, LLC in the amount of \$27,423.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 103-06.

11. **The Heights at Park West Master Street Plan Amendments:** A resolution for PPL 06-1998 amending the Master Street Plan, realigning Deane Solomon Collector Street to the east and reclassifying the existing Deane Solomon Road to a local street; realigning

the planned Collector Park West Boulevard south of the current alignment as described and depicted in the attached maps.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 104-06.

- 12. 2006 Justice Assistance Grant:** A resolution authorizing the Fayetteville Police Department to accept a continuation of the Justice Assistance Grant in the amount of \$181,426.00 to assist in funding the Fourth Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$31,426.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 105-06.

- 13. Support of Local Television Cable Franchising Authority:** A resolution in support of Local Television Cable Franchising Authority and in opposition to Federal Legislation reducing local authority.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 106-06.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the May 16, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4875.

C. NEW BUSINESS:

- 1. Recognition of Local Redevelopment Authority (LRA):** A resolution recognizing the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center (USARC), including outreach to homeless providers and to other interested parties.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 107-06.

- 2. Improvement District No. 14 Clearwood Crossing Dissolution:** An ordinance to repeal Ordinance No. 4843 and dissolve the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4876.

- 3. East Square Redevelopment PZD Appeal (C-PZD 05-1610):** A resolution to grant the appeal of East Square Developers to add two floors of Hotel Rooms as a minor modification of C-PZD 05-1610.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 108-06.

4. **Crystal Springs IV Appeal:** Appeal the approval of the PPL 06-1977 Preliminary Plat Crystal Springs IV for property located north of Mt. Comfort Road, at the end of Raven Lane.

THIS ITEM WAS TABLED TO THE JUNE 20, 2006 CITY COUNCIL MEETING.

5. **Arkansas Department of Aeronautics SAAG Grants:** A resolution authorizing airport staff to apply for and accept two (2) SAAG Grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two (2) corporate hangars at the Fayetteville Municipal Airport; approving the financing plan to cover the city's match of \$700,000.00; and approving budget adjustments recognizing the grant revenues.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 109-06.

6. **VAC 06-2045 Bellafont II:** An ordinance approving VAC 06-2045 submitted by H2 Engineering, Inc. for property located northwest of Joyce Boulevard and Vantage Drive, vacating a portion of the utility easement located within the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4877.

7. **RZN 06-2026 Lafayette and Mission:** An ordinance rezoning that property described in rezoning petition RZN 06-2026 for 11 non-contiguous parcels, located north of Lafayette Street and east of Mission Boulevard, from RMF-24, Residential Multi-Family, 24 units per acre to RMF-6, Residential Multi-Family, 6 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4878.

8. **BMW Investments, LLC Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in the amount of \$14,500.00 for the upsizing of approximately 860 feet of 8" water main to 12" water main; and approving a contingency in the amount of \$1,450.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4879.

9. **Fire Stations #3 and #5 Bond Purchase Agreement:** An ordinance authorizing the issuance and sale of not to exceed three million five hundred thousand dollars (\$3,500,000.00) of the city's General Obligation Bonds, Series 2006A, for the purpose of financing all or a portion of the cost of Fire Station facility improvements; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4880.

- 10. RZN 06-2028 Mountain Ranch C-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 22.68 acres, located west of I-540 and south of Betty Jo Drive, from R-A, Residential-Agricultural, C-1, Neighborhood Commercial, and RMF-24, Residential Multi-Family, 24 units per acre to C-2 Thoroughfare Commercial.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4881.

- 11. RZN 06-2028 Mountain Ranch RMF-24:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 0.28 acres, located west of I-540 and south of Betty Jo Drive, from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4882.

- 12. RZN 06-2028 Mountain Ranch RSF-4:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 1.17 acres, located west of I-540 and south of Betty Jo Drive, from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4883.

- 13. RZN 06-2028 Mountain Ranch RMF-12:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 5.28 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial to RMF-12, Residential Multi-Family, 12 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4884.

- 14. RZN 06-2028 Mountain Ranch RSF-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 8.91 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RSF-2, Residential Single Family, 2 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4885.

- 15. RZN 06-2028 Mountain Ranch RMF-18:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 9.16 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RMF-18, Residential Multi-Family, 18 units per acre.

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

- 16. RZN 06-2050 Wales:** An ordinance rezoning that property described in rezoning petition RZN 06-2050 for approximately 1.4 acres, located at 2055 North Fox Hunter

Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4886.

- 17. West Fayetteville Annexation Election:** An ordinance calling an election to determine whether approximately 2,000 acres contiguous to the western city limits should be annexed into Fayetteville.

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

D. INFORMATIONAL:

City Council Tour: June 5, 2006 - 4:30 PM

Meeting adjourned at 10:50 p.m.

Subject: <u>Roll</u>					
Motion To:					
Motion By:					
Seconded:					
At 6:10 AM Marr & Rhoads Arrived at 6:10	Thiel	✓			
	Cook	✓			
	Marr	absent during roll call			
	Rhoads	absent during roll call			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody	absent			

Subject: <u>Add Resolution to the Agenda (Consent)</u>					
Motion To:		Add to the Consent Agenda			
Motion By:		Thiel			
Seconded:		Lucas			
to add to the agenda passed	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody	absent			

Subject: <i>Consent</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Reynolds</i>			
Seconded:		<i>Lucas</i>			
<i>Consent</i> <u><i>Passed</i></u> <i>Res.</i> <i>95-06</i> <i>to</i> <i>106-06</i>	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Marr	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>abstain</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Reynolds	<i>✓</i>			
	Mayor Coody				

7-0

Subject: <i>C - PZD - 06-1921 Lazerby Phase II</i>					
Motion To:		<i>3rd read</i>	<i>Pass</i>		
Motion By:		<i>Lucas</i>			
Seconded:		<i>Marr</i>			
<i>B.I.</i> <u><i>Unfinished</i></u> <u><i>Passed</i></u> <i>4875</i>	Thiel	<i>✓</i>	<i>✓</i>		
	Cook	<i>✓</i>	<i>✓</i>		
	Marr	<i>✓</i>	<i>✓</i>		
	Rhoads	<i>✓</i>	<i>✓</i>		
	Ferrell	<i>✓</i>	<i>✓</i>		
	Lucas	<i>✓</i>	<i>✓</i>		
	Jordan	<i>✓</i>	<i>✓</i>		
	Reynolds	<i>✓</i>	<i>✓</i>		
	Mayor Coody				

8-0

8-0

Subject: Recognition of Local Redevelopment Authority (LRA)					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Lucas			
C. 1, New Business <u>Passed</u> 107-06	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject: Improvement District #14 Clearwood Crossing Dissolution					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Marr		
Seconded:		Ferrell	Ferrell		
C. 2, New Business <u>Passed</u> 4876	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: <i>East Square Redevelopment PZD Appeal CPZD 05-1610</i>					
Motion To:		<i>Approve</i>			<i>End of Side 1</i>
Motion By:		<i>Ferrell</i>			<i>Jeremy Pata</i>
Seconded:		<i>Reynolds</i>			<i>NO height requirement in C-4.</i>
<i>C. 3.</i> <i>New Business</i> <i>passed</i> <i>108-06</i>	Thiel	<i>✓</i>			
	Cook	<i>N</i>			
	Marr	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Reynolds	<i>✓</i>			
	Mayor Coody				

8-0

Subject: <i>Crystal Springs IV Appeal</i>					
Motion To:		<i>Amend - (Add) Condition of Approval</i>		<i>Table until 6/20/06</i>	
Motion By:		<i>Ferrell</i>		<i>Jordan</i>	
Seconded:		<i>Reynolds</i>		<i>Rhoads</i>	
<i>C. 4.</i> <i>New Business</i> <i>This Appeal was tabled until 6/20/06</i>	Thiel			<i>✓</i>	
	Cook			<i>✓</i>	
	Marr	<i>Motion</i>		<i>✓</i>	
	Rhoads	<i>Withdrawn</i>		<i>✓</i>	
	Ferrell	<i>_____</i>		<i>✓</i>	
	Lucas			<i>✓</i>	
	Jordan			<i>✓</i>	
	Reynolds			<i>✓</i>	
	Mayor Coody				

8-0

City Council Meeting June 6, 2006

Subject: Arkansas Dept. of Aeronautics SAAG Grants					
Motion To:		Amend \$1700,00 from General Fuel Repair		Pass	
Motion By:		Thiel	15 years.	Cook	
Seconded:		Marr		Marr	
C. 5. New Business <u>Passed</u> 109-06	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

8-0

8-0

Subject: VAC 06-2045 Bellafont II					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Marr	Ferrell		
C. 6. New Business <u>Passed</u> 4877	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: RZN 06-2026 Lafayette & Mission					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Thiel		
Seconded:		Thiel	Reynolds		
C.7. New Business <u>passed</u> 4878	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: BMW Investments LLC Cost-Share					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Cook		
Seconded:		Lucas	Ferrell		
C.8. New Business <u>passed</u> 4879	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: Move Item #17 Fire Stations #3 & #5					
Motion To:		Move #17 on the agenda	Ahead		Bond Purchase Agreement
Motion By:		Marr			
Seconded:		Reynolds			
Move on Agenda passed	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject: Fire Stations #3 and #5 Bond Purchase Agreement					
Motion To:		Amend Ordinance to	\$4,000,000	(New ordinance that was passed out at the City Council Meeting)	
Motion By:		Marr			
Seconded:		Cook			
Amendment passed	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject: <i>Irie Station # 3 and # 5 Purchase Agreement</i>					
Motion To:		<i>2nd read</i>	<i>3rd read</i>	<i>Pass</i>	
Motion By:		<i>Marr</i>	<i>Marr</i>		
Seconded:		<i>Cook</i>	<i>Cook</i>		
<i>Ordinance</i> <i>Passed</i> <i>4880</i>	Thiel	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Cook	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Marr	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Rhoads	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Ferrell	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Lucas	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Jordan	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Reynolds	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Coody				
		<i>8-0</i>	<i>8-0</i>	<i>8-0</i>	

Subject: <i>RZN-06-2028 Mountain Ranch C-2</i>					
Motion To:		<i>2nd read</i> <i>Marr</i>	<i>3rd read</i> <i>Marr</i>	<i>Pass</i>	
Motion By:		<i>Ferrell</i>	<i>Lucas</i>		
Seconded:					
<i>C. 9.</i> <i>New Business</i> <i>Passed</i> <i>4881</i>	Thiel	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Cook	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Marr	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Rhoads	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Ferrell	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Lucas	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Jordan	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Reynolds	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Coody				
		<i>8-0</i>	<i>8-0</i>	<i>8-0</i>	

Subject: RZN 06-2028 Mountain Ranch RMF-24					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Lucas	Lucas		
Seconded:		Reynolds	Reynolds		
C.I.O. New Business <u>passed</u> 4882	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: RZN 06-2028 Mountain Ranch RSF-4					
Motion To:		2nd read	3rd read	pass	
Motion By:		Lucas	Lucas		
Seconded:		Ferrell	Reynolds		
C.I.I. New Business <u>passed</u> 4883	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: RZN 06-2028 Mountain Ranch RMF-12					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jerrill	Lucas		
Seconded:		Lucas	Reynolds		
C. 12. New Business <u>passed</u> 4884	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	7-1	

Subject: RZN 06-2028 Mountain Ranch RSF-2					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Lucas	Lucas		
Seconded:		Thiel	Reynolds		
C. 13. New Business 4885	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: RZN 06-2028 Mountain Ranch RMF-18					
Motion To:					
Motion By:					
Seconded:					
C.14. New Business Left on the first Reading	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

Subject: RZN 06-2050 Wales					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Reynolds	Reynolds		
C.15. New Business 4886	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: West Jayetteville Annexation					
Motion To:		Amend date to Sept. 12		Amend to Add Subsection b	
Motion By:		Thiel			
Seconded:		Marr			
C.16. New Business Amend Add Subsection b passed	Thiel			✓	
	Cook	Motion		✓	
	Marr	Withdrawn		✓	
	Rhoads			✓	
	Ferrell			✓	
	Lucas			✓	
	Jordan			✓	
	Reynolds			✓	
	Mayor Coody				

8-0

Subject: West Jayetteville Annexation					
Motion To:		Amend to hold next General Election (November 7, 2006)			
Motion By:		Marr			
Seconded:		Thiel			
C.16. New Business Amend to hold at General Election November 7, 2006 passed	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	N			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

7-1

Subject: <i>West Jayetteville Annexation</i>					
Motion To:					
Motion By:					
Seconded:					
<i>C. 16. New Business Left on the first Reading</i>	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
Mayor Coody					

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

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
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Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
June 6, 2006**

A meeting of the Fayetteville City Council will be held on June 6, 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

Commemoration of the Fayetteville Public Library's 90th birthday - Louise Schaper, Library Director.

A. CONSENT:

- 1. Approval of the April 18, 2006, May 2, 2006 and May 16, 2006 City Council meetings minutes.**
- 2. Community Development Block Grant:** A resolution approving the Community Development Block Grant (CDBG) Agreement for 2006 in the amount of \$653,244.00.
- 3. APAC-Arkansas, Inc. Change Order No. 2:** A resolution approving Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$277,505.60; and approving a Budget Adjustment in the amount of \$185,605.00 recognizing restored grant revenues.
- 4. McClelland Consulting Engineers, Inc:** A resolution approving a three-year contract with McClelland Consulting Engineers, Inc. for airport engineering services.

5. **Washington Regional Medical Center's Performance Bond:** A resolution to approve Washington Regional Medical Center's Performance Bond and Promissory Note to guarantee payment of an offsite improvement (traffic light) in the amount of \$110,000.00.
6. **Score Uniforms - Soccer Uniform Purchase:** A resolution awarding Bid #06-05 and approving the purchase of youth soccer uniforms from Score Uniforms in an amount not to exceed \$22,394.00 for the fall 2006 season and \$4,000.00 for spring 2007 season.
7. **RJN Group, Inc. Amendment No. 2:** A resolution approving contract Amendment #2 to the June 15, 2004 agreement for professional engineering services with RJN Group, Inc. in the amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington Sewer Basin; and approving a five percent (5%) contingency in the amount of \$6,200.00.
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9. **AHTD Widening of Hwy 112 from Hwy 112 Spur North Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 112 from Highway 112 Spur North.
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11. **The Heights at Park West Master Street Plan Amendments:** A resolution for PPL 06-1998 amending the Master Street Plan, realigning Deane Solomon Collector Street to the east and reclassifying the existing Deane Solomon Road to a local street; realigning the planned Collector Park West Boulevard south of the current alignment as described and depicted in the attached maps.
12. **2006 Justice Assistance Grant:** A resolution authorizing the Fayetteville Police Department to accept a continuation of the Justice Assistance Grant in the amount of \$181,426.00 to assist in funding the Fourth Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$31,426.00.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the May 16, 2006 City Council meeting.*

C. NEW BUSINESS:

- ✓ 1. **Recognition of Local Redevelopment Authority (LRA):** A resolution recognizing the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center (USARC), including outreach to homeless providers and to other interested parties.
- ✓ 2. **Improvement District No. 14 Clearwood Crossing Dissolution:** An ordinance to repeal Ordinance No. 4843 and dissolve the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas.
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- ✓ 6. **VAC 06-2045 Bellafont II:** An ordinance approving VAC 06-2045 submitted by H2 Engineering, Inc. for property located northwest of Joyce Boulevard and Vantage Drive, vacating a portion of the utility easement located within the subject property.
- ✓ 7. **RZN 06-2026 Lafayette and Mission:** An ordinance rezoning that property described in rezoning petition RZN 06-2026 for 11 non-contiguous parcels, located north of Lafayette Street and east of Mission Boulevard, from RMF-24, Residential Multi-Family, 24 units per acre to RMF-6, Residential Multi-Family, 6 units per acre.
- ✓ 8. **BMW Investments, LLC Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in the amount of \$14,500.00 for the upsizing of approximately 860 feet of 8" water main to 12" water main; and approving a contingency in the amount of \$1,450.00.
- ✓ 9. **RZN 06-2028 Mountain Ranch C-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 22.68 acres, located west of I-540 and south of Betty Jo Drive, from R-A, Residential-Agricultural, C-1, Neighborhood Commercial, and RMF-24, Residential Multi-Family, 24 units per acre to C-2 Thoroughfare Commercial.

- ✓ 10. **RZN 06-2028 Mountain Ranch RMF-24:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 0.28 acres, located west of I-540 and south of Betty Jo Drive, from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.
- ✓ 11. **RZN 06-2028 Mountain Ranch RSF-4:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 1.17 acres, located west of I-540 and south of Betty Jo Drive, from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.
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- ✓ 17. **Fire Stations #3 and #5 Bond Purchase Agreement:** ^{Five} An ordinance authorizing the issuance and sale of not to exceed three million ^{two} hundred thousand dollars (\$3,500,000.00) of the city's General Obligation Bonds, Series 2006A, for the purpose of financing all or a portion of the cost of Fire Station facility improvements; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

D. INFORMATIONAL:

City Council Tour: June 5, 2006 - 4:30 PM

*Need to
change*

*Agenda Session
5/30/06*

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
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City of Fayetteville Arkansas
City Council Meeting
June 6, 2006**

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

✓ Progress Report on Phase I of the Classification and Compensation System Project Job Description Development - Johanson Group – Agenda Session Only

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- Remove - Per Dave Jurgens does not need to be on the agenda.*
✓ **7. ~~Arkansas Department of Environmental Quality:~~** A resolution approving an agreement with the Arkansas Department of Environmental Quality (ADEQ) to install an air monitoring station on the Markham Water Storage Tank Site.

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- Move to New Business #1*
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D. INFORMATIONAL:

City Holiday: Memorial Day – May 29, 2006

City Council Tour: June 5, 2006 - 4:30 PM

Consent

Add: 2006 Justice Assistance Grant.

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
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- NB
~~3~~
4
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- pull*
15. **Davis Business Planning - District Court Software Upgrade Project:** Still waiting on staff review to come back.

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14. **West Fayetteville Annexation Election:** An ordinance calling an election to determine whether approximately 2,000 acres contiguous to the western city limits should be annexed into Fayetteville.

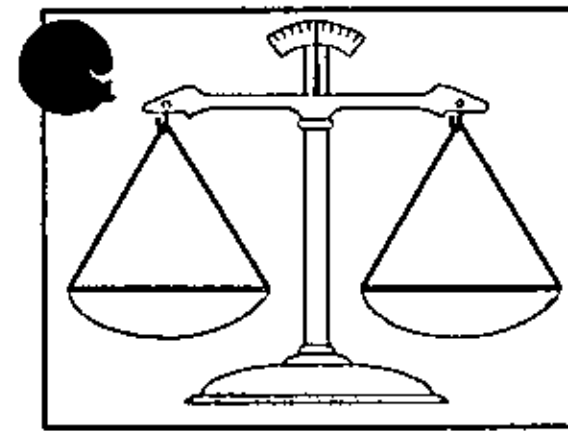
15. **Fire Station #5 Bond Purchase Agreement:** An ordinance authorizing the issuance and sale of not to exceed three million two hundred thousand dollars (\$3,200,000.00) of the city's General Obligation Bonds, Series 2006A, for the purpose of financing all or a portion of the cost of Fire Station facility improvements; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

D. INFORMATIONAL:

City Holiday: Memorial Day – May 29, 2006

City Council Tour: June 5, 2006 - 4:30 PM

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**

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

DATE: **June 7, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting
of June 6, 2006**

1. **CDBG:** Resolution approving Community Development Block Grant Agreement for 2006 in amount of \$653,244.00;
2. **APAC-Arkansas, Inc. Change Order #2:** Resolution approving Change Order #2 to construction contract w/APAC-Arkansas, Inc., McClinton-Anchor Division in amount of \$277,505.60; and approving budget adjustment in amount of \$185,605.00 recognizing restored grant revenues;
3. **McClelland Consulting Engineers, Inc.:** Resolution approving 3-year contract w/McClelland Consulting Engineers, Inc. for airport engineering services;
4. **WRMC Performance Bond:** Resolution approving WRMC's Performance Bond and Promissory Note to Guarantee payment of an offsite improvement (traffic light) in amount of \$110,000.00;
5. **Score Uniform:** Resolution awarding Bid #06-05 and approving purchase of youth soccer uniforms from Score Uniforms in amount not to exceed \$22,294.00 for fall 2006 season and \$4,000.00 for Spring 2007 season;
6. **RJN Group, Inc. Amendment #2** Resolution approving contract amendment #2 to June 15, 2004 agreement for professional engineering services w/RJN Group, Inc. in amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation

in Farmington sewer basin; and approving 5% contingency in amount of \$6,200.00;

7. **AHTD Widening of Hwy. 16/Hwy. 71B East cost share:** Resolution expressing willingness of City to participate in partial funding of proposed widening of Hwy. 16 from Hwy. 71B East to Stone Bridge Road;

8. **AHTD Widening of Hwy. 112 from Hwy. 112 Spur North cost share:** Resolution expressing willingness of City to participate in partial funding of proposed widening of Hwy. 112 from Hwy. 112 Spur North;

9. **Wheeler Lumber:** Resolution approving award of Bid #06-37 for construction and delivery of Crown Trail Bridge to Wheeler Lumber, LLC in amount of \$27,423.00;

10. **The Heights at Park West Master Street Plan Amendments:** Resolution for PPL 06-1998 amending Master Street Plan, realigning Deane Solomon Collector Street to the East and reclassifying existing Deane Solomon Road to a local street; realigning planned collector Park West Boulevard south of current alignment as described and depicted in attached maps;

11. **2006 Justice Assistance Grant:** Resolution authorizing Fayetteville Police Department to accept a continuation of the Justice Assistance Grant in amount of \$181,426.00 to assist in funding Fourth Judicial District Drug Task Force and approving budget adjustment in amount of \$31,426.00;

12. **Cable Franchising Authority:** Resolution supporting local television cable franchising authority and in opposition to federal legislation reducing local authority;

13. **C-PZD 06-1921:** Ordinance establishing Commercial Planned Zoning District C-PZD 06-1921, located west of Razorback Road, north of 15th Street, containing approximately 1.34 acres; amending official zoning map of City and adopting Associated Master Development Plan;

14. **Recognition of LRA:** Resolution recognizing Local Redevelopment Authority for Planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center, including outreach to homeless providers and other interested parties;

15. **Improvement District #14 Dissolution:** Ordinance repealing Ordinance No. 4823 and dissolving Clearwood Crossing Improvement District #14 of Fayetteville;

16. East Square Redevelopment PZD Appeal: Resolution amending C-PZD 05-1610 East Square Development approved through Ordinance 4804 on December 20, 2005 by allowing two additional floors for the proposed project;

17. AR Department of Aeronautics SAAG Grants: Resolution authorizing airport staff to apply for and accept two SAAG Grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two corporate hangars at the Fayetteville Municipal Airport; approving the financing plan to cover the City's match of \$700,000.00 and authorizing the Mayor to implement necessary budget adjustments to effectuate this resolution;

18. VAC 06-2045: Ordinance approving VAC 06-2045 submitted by H2 Engineering, Inc. for property located northwest of Joyce Boulevard and Vantage Drive, vacating a portion of the utility easement located within the subject property;

19. RZN 06-2026: Ordinance rezoning property described in RS 06-2026 for 11 non-contiguous parcels, located north of Lafayette Street and east of Mission Boulevard, from RMF-24, Residential Multi-Family, 24 Units per acre to RMF-6, Residential Multi-Family, 6 Units per acre;

20. BMW Investments, LLC cost share: Ordinance waiving requirements of formal competitive bidding and approving cost-share agreement w/BMW Investments, LLC in amount of \$14,500.00 for upsizing of approximately 860 feet of 8" water main to 12" water main and approving contingency in amount of \$1,450.00;

21. RZN 06-2028 (C-2): Ordinance rezoning that property described in RZN 06-2028 for approximately 22.68 acres, located west of I-540 and south of Betty Jo Drive, from R-A, Residential-Agricultural, C-1, Neighborhood Commercial, and RMF-24, Residential Multi-Family, 24 Units per acre to C-2 Thoroughfare Commercial;

22. RZN 06-2028 (RMF-24): Ordinance rezoning that property described in RZN 06-2028 for approximately 0.28 acres, located west of I-540 and south of Betty Jo Drive, from RSF-4, Residential Single Family, 4 Units per acre to RMF-24, Residential Multi-Family, 24 Units per acre;

23. RZN 06-2028 (RSF-4): Ordinance rezoning that property described in RZN 06-2028 for approximately 1.17 acres, located west of I-540 and south of Betty Jo Drive, from RMF-24, Residential Multi-Family, 24 Units per acre to RSF-4, Residential Single Family, 4 Units per acre;

24. RZN 06-2028 (RMF-12): Ordinance rezoning that property described in RZN 06-2028 for approximately 5.28 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial to RMF-12, Residential Multi-Family, 12 Units per acre;

25. RZN 06-2028 (RSF-2): Ordinance rezoning that property described in RZN 06-2028 for approximately 8.91 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RSF-2, Residential Single Family, 2 Units per acre;

26. RZN 06-2050: Ordinance rezoning that property described in RZN 06-2050 for approximately 1.4 acres, located at 2055 N. Fox Hunter Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 Units per acre;

27. Fire Stations #3 and #5 Bond Purchase Agreement: Ordinance authorizing issuance and sale of not to exceed \$4,000,000.00 of the City's General Obligation Bonds, Series 2006A, for purpose of financing all or a portion of cost of fire station facility improvements; authorizing execution and delivery of Trust Indenture pursuant to which the Bonds will be issued and secured; authorizing execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing execution and delivery of a Bond Purchase Agreement providing for sale of the bonds; authorizing execution and delivery of Continuing Disclosure Agreement; and prescribing other matters relating thereto.

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:

June 5, 2006

Publication Charge: \$383.25

Subscribed and sworn to before me

This 5 day of June, 2006.

Notary Public



Sharlene D. Williams

Notary Public

State of Arkansas

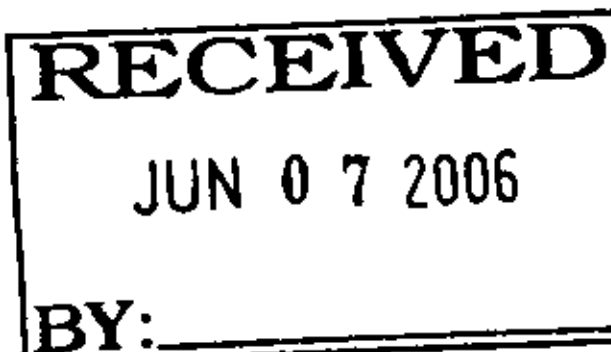
My Commission Expires

October 18, 2014

My Commission Expires:

****NOTE** Please do not pay from Affidavit.**

Invoice will be sent.



**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
JUNE 6, 2006**



A meeting of the Fayetteville City Council will be held on June 6, 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**

Commemoration of the Fayetteville Public Library's 90th birthday - Louise Schaper, Library Director.

A. CONSENT:

- 1. Approval of the April 18, 2006, May 2, 2006 and May 16, 2006 City Council meetings minutes.**
- 2. Community Development Block Grant:** A resolution approving the Community Development Block Grant (CDBG) Agreement for 2006 in the amount of \$653,244.00.
- 3. APAC-Arkansas, Inc. Change Order No. 2:** A resolution approving Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$277,505.60; and approving a Budget Adjustment in the amount of \$185,605.00 recognizing restored grant revenues.
- 4. McClelland Consulting Engineers, Inc:** A resolution approving a three-year contract with McClelland Consulting Engineers, Inc. for airport engineering services.
- 5. Washington Regional Medical Center's Performance Bond:** A resolution to approve Washington Regional Medical Center's Performance Bond and Promissory Note to guarantee payment of an offsite improvement (traffic light) in the amount of \$110,000.00.
- 6. Score Uniforms - Soccer Uniform Purchase:** A resolution awarding Bid #06-05 and approving the purchase of youth soccer uniforms from Score Uniforms in an amount not to exceed \$22,394.00 for the fall 2006 season and \$4,000.00 for spring 2007 season.
- 7. RJN Group, Inc. Amendment No. 2:** A resolution approving contract Amendment #2 to the June 15, 2004 agreement for professional engineering services with RJN Group, Inc. in the amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington Sewer Basin; and approving a five percent (5%) contingency in the amount of \$6,200.00.
- 8. AHTD Widening of Hwy 16/Hwy 71B East Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B East to Stone Bridge Road.
- 9. AHTD Widening of Hwy 112 from Hwy 112 Spur North Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 112 from Highway 112 Spur North.
- 10. Wheeler Lumber, LLC:** A resolution approving the award of Bid #06-37 for the construction and delivery of the Crown Trail Bridge to Wheeler Lumber, LLC in the amount of \$27,423.00.
- 11. The Heights at Park West Master Street Plan Amendments:** A resolution for PPL 06-1998 amending the Master Street Plan, realigning Deane Solomon Collector Street to the east and reclassifying the existing Deane Solomon Road to a local street; realigning the planned Collector Park West Boulevard south of the current alignment as described and depicted in the attached maps.
- 12. 2006 Justice Assistance Grant:** A resolution authorizing the Fayetteville Police Department to accept a continuation of the Justice Assistance Grant in the amount of \$181,426.00 to assist in funding the Fourth Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$31,426.00.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the May 16, 2006 City Council meeting.*

C. NEW BUSINESS:

- 1. Recognition of Local Redevelopment Authority (LRA):** A resolution recognizing the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center (USARC), including outreach to homeless providers and to other interested parties.
- 2. Improvement District No. 14 Clearwood Crossing Dissolution:** An ordinance to repeal Ordinance No. 4843 and dissolve the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas.
- 3. East Square Redevelopment PZD Appeal (C-PZD 05-1610):** A resolution to grant the appeal of East Square Developers to add two floors of Hotel Rooms as a minor modification of C-PZD 05-1610.
- 4. Crystal Springs IV Appeal:** Appeal the approval of the PPL 06-1977 Preliminary Plat Crystal Springs IV for property located north of Mt. Comfort Road, at the end of Raven Lane.
- 5. Arkansas Department of Aeronautics SAAG Grants:** A resolution authorizing airport staff to apply for and accept two (2) SAAG Grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two (2) corporate hangars at the Fayetteville Municipal Airport; approving the financing plan to cover the city's match of \$700,000.00; and approving budget adjustments recognizing the grant revenues.
- 6. VAC 06-2045 Bellafont II:** An ordinance approving VAC 06-2045 submitted by H2 Engineering, Inc. for property located northwest of Joyce Boulevard and Vantage Drive, vacating a portion of the utility easement located within the subject property.
- 7. RZN 06-2026 Lafayette and Mission:** An ordinance rezoning that property described in rezoning petition RZN 06-2026 for 11 non-contiguous parcels, located north of Lafayette Street and east of Mission Boulevard, from RMF-24, Residential Multi-Family, 24 units per acre to RMF-6, Residential Multi-Family, 6 units per acre.
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- 9. RZN 06-2028 Mountain Ranch C-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 22.68 acres, located west of I-540 and south of Betty Jo Drive, from R-A, Residential-Agricultural, C-1, Neighborhood Commercial, and RMF-24, Residential Multi-Family, 24 units per acre to C-2 Thoroughfare Commercial.
- 10. RZN 06-2028 Mountain Ranch RMF-24:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 0.28 acres, located west of I-540 and south of Betty Jo Drive, from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.
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- 13. RZN 06-2028 Mountain Ranch RSF-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 8.91 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RSF-2, Residential Single Family, 2 units per acre.
- 14. RZN 06-2028 Mountain Ranch RMF-18:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 9.18 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RMF-18, Residential Multi-Family, 18 units per acre.
- 15. RZN 06-2050 Wales:** An ordinance rezoning that property described in rezoning petition RZN 06-2050 for approximately 1.4 acres, located at 2055 North Fox Hunter Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.
- 16. West Fayetteville Annexation Election:** An ordinance calling an election to determine whether approximately 2,000 acres contiguous to the western city limits should be annexed into Fayetteville.
- 17. Fire Stations #3 and #5 Bond Purchase Agreement:** An ordinance authorizing the issuance and sale of not to exceed three million two hundred thousand dollars (\$3,500,000.00) of the city's General Obligation Bonds, Series 2006A, for the purpose of financing all or a portion of the cost of Fire Station facility improvements; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

D. INFORMATIONAL:

City Council Town June 5, 2006 - 4:30 PM

Thank you for having me here tonight to share with you that on June 15th the Fayetteville Public Library will complete 90 years of service to our community. The history of our library is interesting. It was a push from citizens that caused our library to come into existence. From the founding forward it has been a continual struggle by our citizens to keep it alive. I'll be quick as I know you have a big agenda. The highlights of the story are thus...

1. Sometime around 1915/1916...A bid for a Carnegie Library fails. Eureka Springs, Fort Smith, Little Rock and Morrilton all sought and received Carnegie grants to build their libraries. But our young town of 5000 was unwilling to provide the building site and the ongoing support that was required by Mr. Carnegie. This action set the stage for the next ninety years of struggle by the leaders of the FPL.
2. Undeterred, a group of citizens came together in March 1916 to establish a library association. Miss Julia Vaulx, the University's librarian, daughter of the minister at St. Paul's Episcopal Church, along with Miss Florida Read take the key leadership spots. The six women on the board of the library association and the 12 men on the library advisory board are passionate about the public library's ability to make information and knowledge accessible to all.
3. On June 15th 1916 the library association opened Fayetteville's first library--two rooms in the basement of the County Court House. By year end over 4000 items are checked out and there are over 300 members. Annual one dollar memberships along with support from organizations like the Marion Chapter of the D.A.R. support the library.
4. The struggle to secure stable funding for the library is front and center for the library boards of the next 90 years. In the teens and 20s, hundreds of fundraising activities yield some support while efforts to obtain a small mill tax are fruitless. Fayetteville's newspaper endlessly champions the library's cause. But by 1922 the library nearly closed its doors due to lack of sufficient funding. With circulation over 20,000 items and half of the schoolchildren using the library, the board felt it had justified its existence but that it could not operate as a free public library unless it has public support. Various organizations came to the rescue including the Lewis Brothers, the Chamber of Commerce, the American Legion, the Masonic Order, Rotary, the Methodist and Presbyterian churches and the Ku Klux Klan all pledge to support the library. Even the City Council voted to support one month of operations.
5. But by 1927, the library closed its doors due to lack of funds. The Fayetteville Democrat wrote: "Do you not realize it saves you money to keep boys and girls off the street, busy and out of harms way? It brings people here and makes business better for you and the real estate men to be able to say we have a well equipped and well supported library. Springdale is going to build a library. Rogers offers to buy the Fayetteville library. Are we not ashamed by these smaller but fast growing neighbors?"
6. Mass meetings are held to determine the library's fate and, as an outcome, new funds are raised and a renewed commitment by the townspeople is made. The County Judge wants the courthouse space that the library occupies so the library reopens in a

"little green cottage" on the corner of East and Meadow Street. But, now there is rent to pay.

7. 1931. State Act 177 allows the establishment of city libraries, but the City Council turns down requests to assume responsibility for the library. It's the Great Depression.
8. 1933. The Library begins receiving some funding from the Community Chest.
9. In 1935, Roberta Fulbright, head of the Fulbright Enterprises and Publisher of the Fayetteville Daily Democrat, offers a lot on Lafayette Street near Mt. Nord for the construction of a public library building. The city planning board and a group of allied civic clubs rallied behind the offer, but the City Council voted 6-2 against it for fear it would take away from other needy projects. Mrs. Fulbright writes..." I'm sorry that I am not allowed to do a generous thing for the town, which, after all, has been generous to me."
10. 1937. The library moves into the City Administration building—a rent free space. Shelves are milled locally; bookends are devised of bricks covered with linoleum. Responding to Nazi book burning, our library joins the Victory Book Campaign, sending thousands of volumes overseas to our service men and women. The first summer reading program is launched.
11. 1948. Racial segregation of library use is ended. Voters approve a county library millage, and the library begins receiving some support from this tax.
12. 1954. Check-outs exceed 78,000. City Administration quarters are bulging at the seams. Plus, the long climb up 28 steep steps denies library use to the elderly and disabled.
13. 1959. The City assumes operation of the library. A \$225,000 bond issue for the library is passed by a hefty margin. Property on East Dickson street, valued at \$35,000, is donated by Gilbert Swanson in memory of Roberta Fulbright. Check outs reach 100,000 books. Also: summer reading programs, previously segregated, are finally integrated.
14. 1962. The new Roberta Fulbright Library building opens. Dr. Merriweather, the keynote speaker, comments: *Some will come to kill time and stay to learn a philosophy of life that will sustain them; some will come for entertainment; some because of a hunger for knowledge; many will be driven here by their own consuming ambition—just to learn or to acquire technical skills; still others to improve their economic status; and some to find peace and rest in its quiet rooms.*"
15. Two expansions are made to the Roberta Fulbright library building, the last expansion was said to be adequate for 10 years and it was. But, just barely. Also, during this time the Friends of the Fayetteville Public Library was founded to help the library financially, which was a good thing because the library continued to struggle financially. At some point the city begins to provide some financial support to the library—thereby supplementing the library's share of the county library millage.

16. 1994 A County election to increase library millage is defeated, though within Fayetteville it is overwhelmingly supported. Lacking sufficient funds, the Library closes on Saturdays. You probably remember the controversy.
17. 1995 The Library reopens on Saturdays thanks to supplemental funding from the City Council.
18. 1997-98 Computers arrive, the card catalogs are eliminated, and a major effort to improve library services is launched. A vision for the library as a social and intellectual gathering place emerges.
19. 1999 to 2006
 - a. Voters approve a 1-cent sales tax to build a new 88,000 square foot library.
 - b. The Fayetteville Public Library Foundation is established and soon thereafter announces a gift of \$3 million for the building project from Jim Blair.
 - c. Voters approve a city library millage, thereby backing out of the county system.
 - d. Barbara Tyson gives \$2M to the new building.
 - e. Blair Library, Fayetteville's first green building, opens on-time and within budget.
 - f. The Fayetteville Public Library wins the national Library of the Year award, ahead of the Seattle Public Library and many other prominent libraries. Over 800,000 items are checked out.
20. What we would like to thank you for is that this city council, for the first time in the library's history, supported a dedicated millage tax that would provide stable and predictable funding to ensure library services now and into the future. For your leadership and support we are tremendously grateful. And while losing the election by 219 votes was tremendously disappointing, we will continue to seek this goal with your support. It is a key goal in our draft strategic plan—a plan that we will be sharing with the public and with the council in the coming months.
21. I am also pleased to share with you that the final completion of the building has occurred. That the architects have filed all the documents for green building status. That we remained within budget. And that we wanted to be sure that the Council and the citizens understand how it came to be that a public project came in within budget. The key factors were a great team, clear delegation to a city representative and a library finance person to oversee the project in detail. These folks looked for every opportunity to save money and questioned every possible overage even if it was a small amount. Another key factor was a city staff that went above and beyond. Steve Davis is to be commended for his advice and guidance throughout our project. Peggy Vice, Kevin Springer, Marsha Farthing and the folks in planning, engineering and parks were all critical to the success of the project. And finally, we had an excellent City Council, Mayor, City Clerk and Attorney who were supportive of the project. What meant the most in fueling our drive to come in within budget were your words of encouragement, your willingness to talk with us and your thoughtful suggestions.

Put in Agenda Pack.

Lioneld

Mayor Coody is attending the US Conference of Mayors annual meeting in Las Vegas this week. He will return to the office on Monday.

**Thanks
Lana**

June 6, 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

June 6, 2006
Agenda

From: David Jurgens
To: City Clerk
Date: 5/8/06 2:26PM
Subject: OMI Annual Report

Sondra,

Please schedule the OMI Annual Report to the City of Fayetteville to be given at the agenda session on 30 May 2006. This will be an informational item for the agenda session only. The title should be "OMI Annual Report on Operations"

Thank you,

David

CC: Smith, Sondra; Waste Water Treatment Plant; Wood, Amber

Fire Stations #3 & #5 Bond Purchase Agreement
Handed out at the City Council Meeting 6/6/06

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$4,000,000 OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2006A, FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF FIRE STATION FACILITY IMPROVEMENTS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City Council of the City of Fayetteville, Arkansas (the "City") has determined that there is a great need for a source of funds to finance the costs of acquisition, construction and equipping of additional fire station facilities (i) at Routh Park (near the intersection of Crossover and Old Wire Roads) and (ii) at the former Tyson Complex (near the intersection of Huntsville and Happy Hollow Roads) (collectively, the "Project"); and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 78 to the Constitution of the State of Arkansas ("Amendment 78") and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.* (as from time to time amended, the "Act"), to issue and sell its short-term financing obligations (as defined in the Act) to finance the costs of acquiring, constructing and installing real property or tangible personal property having an expected useful life of more than one year, which short-term financing obligations shall be secured by and payable from the general revenues of the City; and

WHEREAS, as authorized under the provisions of Amendment 78 and the Act, the City has now determined to issue and sell its General Obligation Bonds, Series 2006A, in the aggregate principal amount of not to exceed \$4,000,000 (the "Bonds"), in order to provide funding for the Project; and

WHEREAS, the City has made arrangements for the sale of the Bonds to Crews & Associates, Inc., Little Rock, Arkansas (the "Underwriter"), pursuant to the terms of a Bond Purchase Agreement between the City and the Underwriter (the "Bond Purchase Agreement") in substantially the form presented to and before this meeting;

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

Section 1. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 78 to the Constitution of the State of Arkansas and the Act, there is hereby authorized the issuance of bonds of the City to be designated as "General Obligation Bonds, Series 2006A" (the "Bonds"). The Bonds shall be issued in the original aggregate principal amount of not to exceed Four Million Dollars (\$4,000,000), shall mature on July 1 in the years 2007 through 2011, inclusive, and shall bear interest at rates as shall be specified in the Bond Purchase Agreement. The true interest cost of the Bonds to the City, including the interest rates borne by the Bonds and the costs of issuance funded with proceeds of the Bonds, will not exceed 4.75% per annum, and no Bond will bear a coupon interest rate in excess of 4.50% per annum. The proceeds of the Bonds will be utilized (i) to finance all or a portion of the costs of the acquisition, construction and equipping of the Project, and (ii) to pay printing, underwriting, legal and other expenses incidental to the issuance of the Bonds. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall be subject to redemption prior to maturity, and shall contain such other terms, covenants and conditions, all as set forth in that certain Trust Indenture dated as of July 15, 2006 (the "Indenture"), by and between the City and a bank or other financial institution to be named and having corporate trust powers (the "Trustee"), to be entered into by the City and the Trustee in substantially the form submitted to this meeting.

The Mayor is hereby authorized and directed to execute and deliver the Bonds in substantially the form thereof contained in the Indenture submitted to this meeting, and the City Clerk is hereby authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Bonds to be accepted and authenticated by the Trustee. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Kutak Rock LLP, Little Rock, Arkansas ("Bond Counsel"), in order to complete the Bonds in substantially the form thereof contained in the Indenture submitted to this meeting, with such changes as shall be approved by such persons executing the Bonds, their execution to constitute conclusive evidence of such approval.

Section 2. It is affirmed that, pursuant to Amendment 78 and the Act, the debt service obligations of the City with respect to the Bonds shall constitute general obligations of the City, and the total annual payments owed by the City pursuant to the Bonds in each of the City's fiscal years shall be charged against and paid from the general revenues of the City for such fiscal years. As required by Amendment 78 and the Act, the City hereby finds and determines that:

- (a) Each of the Project components to be financed with proceeds of the Bonds has an average useful life in excess of one year; and
- (b) The aggregate nominal principal amount of all obligations of the City under Amendment 78 and the Act, including the Bonds, will at no time exceed five percent (5%) of the assessed value of the taxable real and personal property located within the City, as determined by the last tax assessment completed prior to the date hereof.

Section 3. To prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge the Indenture, and the City Clerk is hereby authorized and directed to execute and acknowledge the Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Indenture to be accepted, executed and acknowledged by the Trustee. The Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the terms of the Bonds. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Indenture in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 4. There is hereby authorized and approved a Preliminary Official Statement of the City, including the cover page and appendices attached thereto, relating to the Bonds. The Preliminary Official Statement is hereby "deemed final" by the City within the meaning of U.S. Securities and Exchange Commission Rule 15c2-12. The distribution of the Preliminary Official Statement is hereby approved. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement, including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City and the Underwriter, is herein referred to as the "Official Statement," and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Official Statement in substantially the form of the Preliminary Official Statement submitted to this meeting, with such changes as shall be approved by such persons, the Mayor's execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

Section 5. In order to prescribe the terms and conditions upon which the Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), by and between the City and the Underwriter, and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Underwriter and Bond Counsel in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 6. In order to provide for continuing disclosure of certain financial and operating information with respect to the City in compliance with the provisions of Rule 15c2-12

of the U. S. Securities and Exchange Commission, the Mayor is hereby authorized and directed to execute a Continuing Disclosure Agreement to be dated as of the date of its execution (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, and the Mayor is hereby authorized and directed to cause the Continuing Disclosure Agreement to be executed by the Trustee. The Continuing Disclosure Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Continuing Disclosure Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Continuing Disclosure Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Continuing Disclosure Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 7. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Bonds and to effect the execution and delivery of the Indenture, the Bond Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and a Tax Regulatory Agreement relating to the tax exemption of interest on the Bonds, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 8. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bonds.

Section 9. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

PASSED and APPROVED this the 20th day of June, 2006

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA SMITH, City Clerk

\$3,560,000

City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006

*Fire Stations #3 & #5 Bond
Purchase Agreement.*

Sources & Uses

Dated 07/01/2006 | Delivered 07/18/2006

Sources Of Funds

Par Amount of Bonds	\$3,560,000.00
Accrued Interest from 07/01/2006 to 07/18/2006	6,462.95
Total Sources	\$3,566,462.95

Uses Of Funds

Deposit to Project Construction Fund	3,500,000.00
Total Management Fees	25,000.00
Bond Counsel	25,000.00
Deposit to Debt Service Fund	6,462.95
Trustee Fees	4,000.00
Publication Fees	2,500.00
Rounding Amount	2,000.00
MSRB, PSA, Cusips, DTC Fees	1,500.00
Total Uses	\$3,566,462.95

\$3,560,000

City of Fayetteville, Arkansas

General Obligation Bonds

Series 2006

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	Dollar Price
07/01/2007	Serial Coupon	3.700%	3.698%	660,000.00	100.000%	660,000.00
07/01/2008	Serial Coupon	3.800%	3.799%	685,000.00	100.000%	685,000.00
07/01/2009	Serial Coupon	3.850%	3.849%	710,000.00	100.000%	710,000.00
07/01/2010	Serial Coupon	3.900%	3.900%	740,000.00	100.000%	740,000.00
07/01/2011	Serial Coupon	3.950%	3.950%	765,000.00	100.000%	765,000.00
Total	-	-	-	\$3,560,000.00	-	\$3,560,000.00

Bid Information

Par Amount of Bonds	\$3,560,000.00
Gross Production	\$3,560,000.00

Total Underwriter's Discount (0.702%)	\$(25,000.00)
Bid (99.298%)	3,535,000.00

Accrued Interest from 07/01/2006 to 07/18/2006	6,462.95
Total Purchase Price	\$3,541,462.95

Bond Year Dollars	\$10,945.00
Average Life	3.074 Years
Average Coupon	3.8831658%

Net Interest Cost (NIC)	4.1115806%
True Interest Cost (TIC)	4.1338796%

\$3,560,000

City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Net New D/S
07/01/2007	660,000.00	3.700%	136,862.50	796,862.50	796,862.50
07/01/2008	685,000.00	3.800%	112,442.50	797,442.50	797,442.50
07/01/2009	710,000.00	3.850%	86,412.50	796,412.50	796,412.50
07/01/2010	740,000.00	3.900%	59,077.50	799,077.50	799,077.50
07/01/2011	765,000.00	3.950%	30,217.50	795,217.50	795,217.50
Total	\$3,560,000.00	-	\$425,012.50	\$3,985,012.50	\$3,985,012.50

Yield Statistics

Accrued Interest from 07/01/2006 to 07/18/2006	6,462.95
Average Life	3.074 Years
Average Coupon	3.8831658%
True Interest Cost (TIC)	4.1338796%
All Inclusive Cost (AIC)	4.4707674%
Bond Yield for Arbitrage Purposes	3.8816333%

IRS Form 8038

Net Interest Cost (NIC)	4.1115806%
Weighted Average Maturity	3.027 Years

Fire Station #3 & #5
Bond Purchase Agreement
6/6/06 City Council Meeting

KUTAK ROCK LLP
DRAFT 05/18/06

CITY OF FAYETTEVILLE, ARKANSAS

to

as Trustee

TRUST INDENTURE

Dated as of [July 15], 2006

Providing for:

[\$3,165,000]
City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006A

Prepared by:

Kutak Rock LLP
425 West Capitol Avenue, Suite 1100
Little Rock, Arkansas 72201

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Indenture and is only for convenience of reference.)

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TRUST INDENTURE

THIS TRUST INDENTURE, dated as of [July 15], 2006, by and between the **CITY OF FAYETTEVILLE, ARKANSAS** (the "City"), a city of the first class organized under and existing by virtue of the laws of the State of Arkansas, and _____, as trustee (the "Trustee"), [a national banking association organized under and existing by virtue of the laws of the United States of America] and having its principal corporate trust office in _____, Arkansas;

WITNESSETH:

WHEREAS, the City is a city of the first class and political subdivision of the State of Arkansas (the "State"); and

WHEREAS, the City Council of the City has determined that there is a great need for a source of funds to finance all or a portion of the costs of acquiring, constructing and equipping additional fire station facilities within the _____ section of the City [MORE SPECIFIC?] (the "Project"); and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 78 to the Constitution of the State of Arkansas ("Amendment 78") and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.* (as from time to time amended, the "Act"), to issue and sell its "short-term financing obligations" (as defined in the Act) to finance the costs of acquiring, constructing and installing real property or tangible personal property having an expected useful life of more than one year, which short-term financing obligations shall be secured by and payable from the general revenues of the City; and

WHEREAS, pursuant to the provisions of Ordinance No. _____ of the City, adopted by the City Council on [June __], 2006 (the "Authorizing Ordinance"), and in accordance with the provisions of Amendment 78 and the Act, the City proposes to issue its General Obligation Bonds, Series 2006A (the "Bonds"), in the aggregate principal amount of [\$3,165,000], in order to provide for the financing of the Project; and

WHEREAS, the City has determined to enter into this Indenture to authorize the issuance of and to secure the Bonds by granting to the Trustee a pledge and assignment of the interests and other rights herein contained, and certain funds created hereby; and

WHEREAS, the Bonds are to be dated, bear interest, mature and be subject to redemption as hereinafter in this Indenture set forth in detail; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Bonds have been in all respects duly and validly confirmed, authorized and approved under the provisions of the Authorizing Ordinance; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal general obligations of the City according to the import thereof, have been done and performed, and the creation, execution and delivery of this Indenture and the creation, execution, issuance and delivery of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS INDENTURE WITNESSETH:

That the City, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the Bonds by the Holders and owners thereof, and the sum of Ten Dollars (\$10.00), lawful money of the United States of America, to it duly paid by the Trustee, at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect and to secure the performance and observance by the City of all the covenants expressed or implied herein and in the Bonds, subject to all of the provisions hereof, does hereby grant, bargain, sell, convey, mortgage, assign, transfer and pledge unto the Trustee, and unto its successor or successors in trust, and to them and their assigns forever, for the securing of the performance of the obligations of the City hereinafter set forth the following:

1.

Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, (i) the proceeds of the sale of the Bonds, (ii) the general revenues of the City, including road fund revenues, and (iii) the Bond Fund and the Project Fund established by this Indenture, including the investment earnings thereon, if any.

2.

Any and all other properties, rights and interests of every kind and nature from time to time which have been, are hereby, or hereafter are, by delivery or by writing or transfer of any kind, conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder, by the City or by any other Person, firm or corporation, or with the written consent of the City, to the Trustee, which is hereby authorized to receive any and all such properties, rights and interests at any time and at all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD all the same (the "Trust Estate") with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trusts and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all owners of the said Bonds issued under and secured by this Indenture without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the other Bonds; provided, however, that if the City, its successors

or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest due on the Bonds, at the times and in the manner provided in the Bonds, according to the true intent and meaning thereof, and shall make the payments as required under this Indenture or shall provide, as permitted hereby, for the payment thereof by depositing or causing to be deposited with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all of the covenants and conditions pursuant to the terms of this Indenture to be kept, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments or deposits this Indenture and the lien and rights hereby granted shall cease, determine and be void; otherwise, this Indenture is to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH that, and it is expressly declared that, all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all revenues and income hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective owners from time to time of the Bonds or any part thereof, as follows, that is to say:

ARTICLE I

DEFINITIONS

Section 101. Definitions. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings:

“Act” means the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.*, as from time to time amended.

“Amendment 78” means Amendment No. 78 to the Constitution of Arkansas, approved by the voters of the State on November 7, 2000.

“Authorized Representative” means either the Mayor [or the Finance Director of the City] and such additional persons as from time to time may be designated to act on behalf of the City by a Certificate furnished to the Trustee containing the specimen signature thereof and executed on behalf of the City by its Mayor.

“Authorizing Ordinance” means Ordinance No. _____, adopted by the City on [June __], 2006, which authorized the issuance of the Bonds pursuant to this Indenture.

“Beneficial Owner” means any Person who acquires beneficial ownership interest in a Bond held by the Securities Depository. In determining the Beneficial Owner of any Bond, the Trustee may rely exclusively upon written representations made and information given to the

Trustee by the Securities Depository or its Participants with respect to any Bond held by the Securities Depository in which a beneficial ownership interest is claimed.

"Bond Counsel" means any firm of nationally recognized municipal bond counsel selected by the City and acceptable to the Trustee.

"Bond Fund" means the fund by that name created and established in Section 501 of this Indenture.

"Bonds" mean the City's General Obligation Bonds, Series 2006A, issued under and secured by this Indenture in the original aggregate principal amount of [\$3,165,000].

"Book-Entry System" means the book-entry system maintained by the Securities Depository described in Section 216 of this Indenture.

"Business Day" means any day other than (a) a Saturday or Sunday, (b) a day on which commercial banks in New York, New York, or the city in which the corporate trust office of the Trustee is located are authorized or required by law or executive order to close, or (c) a day on which the New York Stock Exchange or the Securities Depository is closed.

"Certificate" means a document signed by an Authorized Representative of the City attesting to or acknowledging the circumstances or other matters therein stated.

"City" means the City of Fayetteville, Arkansas, a municipality and political subdivision under the laws of the State of Arkansas.

"City Clerk" means the person holding the office and performing the duties of the City Clerk of the City.

"Code" means the Internal Revenue Code of 1986, as from time to time amended, and applicable regulations issued or proposed thereunder.

"Completion Date" means the date upon which the Project is first ready for normal continuous operation, as determined by a Qualified Engineer.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement between the City and the Trustee, dated the date of issuance and delivery of the Bonds, as originally executed and as amended from time to time in accordance with the terms thereof.

"Costs of Issuance" means all items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale and issuance of the Bonds, including, but not limited to, underwriting discounts, fees and expenses, publication expenses, expenses of printing, reproducing, filing and recording documents, initial fees and charges of the Trustee and any Paying Agent, fees and expenses for legal, accounting and other professional services, rating fees, costs of securing any credit enhancement for the Bonds, costs of execution, transportation and safekeeping of the Bonds, and other costs, charges and fees incurred in connection with the foregoing.

"Costs of Issuance Fund" means the fund by that name created and established in Section 501 of this Indenture.

"Event of Default" means any event of default specified in Section 801 hereof.

"Fiscal Year" means the 12-month period used, at any time, by the City for accounting purposes, which may be the calendar year.

"Fund" means a fund established by Article V of this Indenture.

"Government Securities" means direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Holder" or "Bondholder" or "owner of the Bonds" means the registered owner of any Bond.

"Indenture" means this Trust Indenture dated as of [July 15], 2006, between the City and the Trustee, pursuant to which the Bonds are issued, and any amendments and supplements hereto.

"Investment Securities" means, if and to the extent the same are at the time legal for investment of Funds held under this Indenture:

(a) Government Securities;

(b) bonds, debentures, notes or other evidence of indebtedness issued or generated by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

- (1) U.S. Export-Import Bank (Eximbank) – direct obligations or fully guaranteed certificates of beneficial ownership;
- (2) Farmers Home Administration (FmHA) – certificates of beneficial ownership;
- (3) Federal Financing Bank;
- (4) Federal Housing Administration Debentures (FHA);
- (5) General Services Administration – participation certificates;
- (6) Government National Mortgage Association (GNMA or "Ginnie Mae") –

(a) GNMA – guaranteed mortgage-backed bonds

(b) GNMA – guaranteed pass-through obligations;

(7) U.S. Maritime Administration – guaranteed Title XI financing; and

(8) U.S. Department of Housing and Urban Development (HUD) – Project Notes; Local Authority Bonds; New Communities Debentures – U.S. government guaranteed debentures; U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds;

(c) bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

(1) Federal Home Loan Bank System – senior debt obligations;

(2) Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”) – participation certificates and senior debt obligations;

(3) Federal National Mortgage Association (FNMA or “Fannie Mae”) – mortgage-backed securities and senior debt obligations;

(4) Student Loan Marketing Association (SLMA or “Sallie Mae”) – senior debt obligations;

(5) Resolution Funding Corp. (REFCOPR) obligations; and

(6) Farm Credit System – consolidated systemwide bonds and notes;

(d) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AA-Am-G, AAA-m or AA-m, and if rated by Moody’s rated Aaa, Aa1 or Aa2;

(e) certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral;

(f) certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF; and

(g) bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest rating categories assigned by such agencies.

“Mayor” means the person holding the office and performing the duties of the Mayor of the City.

"Original Purchaser" means the first purchaser of the Bonds from the City.

"Outstanding" means, as of any date of computation, Bonds theretofore or thereupon being delivered under this Indenture, except:

(a) Bonds cancelled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation;

(b) Bonds deemed to be paid in accordance with Article VII of this Indenture; and

(c) Bonds in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to this Indenture.

"Participants" means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository in the Book-Entry System, as such listing of Participants exists at the time of such reference.

"Paying Agent" means any bank or trust company named by the City as the place at which the principal of and premium, if any, and interest on the Bonds are payable.

"Person" means any natural person, firm, association, corporation, limited liability company, partnership, joint stock company, joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

"Project" means the acquisition, construction and equipping of fire station facilities [MORE SPECIFIC??].

"Project Costs" means, to the extent permitted by the Act or other applicable laws, with respect to the Project, all costs of planning, designing, purchasing, acquiring, constructing, equipping, financing and placing in operation, including obtaining governmental approvals, certificates, permits and licenses with respect thereto, heretofore or hereafter paid or incurred by or on behalf of the City and which shall include, but shall not be limited to:

(a) preliminary investigation and development costs, engineering fees, contractors' fees, labor costs, the cost of materials, equipment, utility services and supplies, costs of obtaining permits, licenses and approvals, costs of real property, insurance premiums, legal and financing fees and costs, administrative and general costs, and all other costs properly allocable to the acquisition, construction and equipping of the Project and placing the same in operation;

(b) all costs relating to injury and damage claims arising out of the acquisition, construction or equipping of the Project;

(c) all other costs incurred in connection with, and properly allocable to, the acquisition, construction and equipping of the Project; and

(d) amounts to pay or reimburse the City or any City fund for expenses of the City incident and properly allocable to such planning, designing, purchasing, acquiring, constructing, equipping, financing and placing in operation of the Project.

"Project Fund" means the fund by that name created and established in Section 501 of this Indenture.

"Qualified Engineer" means an independent consulting engineer or firm of independent consulting engineers not in the regular employ of the City.

"Rating Agency" means Moody's Investors Service, Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., or Fitch, Inc., and their respective successors and assigns. If any such corporation ceases to act as a securities rating agency, the City may appoint any nationally recognized securities rating agency as a replacement.

"Rebate Fund" means the fund by that name created and established in Section 501 of this Indenture.

"Record Date" means the fifteenth day of the calendar month preceding the calendar month in which an interest payment date on the Bonds occurs.

"Requisition" means a written requisition of the City, consecutively numbered, signed by an Authorized Representative including, without limitation, the following with respect to each payment requested:

(i) the name of the person or party to whom payment is to be made and the purpose of the payment,

(ii) the amount to be paid thereunder;

(iii) that such amount has not been previously paid by the City and is justly due and owing to the person(s) named therein as a proper payment or reimbursement of a Project Cost; and

(iv) that no Event of Default exists under the Indenture and that, to the knowledge of the Authorized Representative, no event has occurred and continues which with notice or lapse of time or both would constitute an Event of Default under the Indenture.

"Securities Depository" means The Depository Trust Company, New York, New York, or its nominee, and its successors and assigns, or any other depository institution appointed by the City or the Trustee to act as depository for the Bonds in connection with the Book-Entry System.

"State" means the State of Arkansas.

"Supplemental Indenture" means any indenture supplemental to or amendatory of this Indenture, adopted by the City in accordance with Article X hereof.

"Tax Regulatory Agreement" means the Tax Regulatory Agreement of the City dated as of the date of delivery of the Bonds, relating to maintenance of the excludability of interest on such Bonds from gross income for federal income tax purposes, delivered in connection with the issuance of the Bonds.

"Trustee" means the banking corporation or association designated as Trustee in the Indenture, and its successor or successors as such Trustee. The original Trustee is _____.

"Trust Estate" means the property described in the granting clauses of this Indenture.

Section 102. Use of Words. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "Bond", "owner", "holder" and "person" shall include the plural, as well as the singular, number.

ARTICLE II

THE BONDS

Section 201. Security for the Bonds. (a) The Bonds are general obligations of the City payable as to principal, premium, if any, and interest out of the Trust Estate, which shall include the general revenues of the City. The Trust Estate is hereby pledged, appropriated and assigned to the payment of the principal of, premium, if any, and interest on the Bonds, all in accordance with their terms and the provisions of Amendment 78, the Act and this Indenture. Pursuant to Amendment 78 and the Act, the total annual principal and interest requirements on the Bonds in each fiscal year of the City shall be charged against and paid from the general revenues of the City for such fiscal year, including road fund revenues. The Bonds shall constitute an indebtedness for which the full faith and credit of the City are pledged within the meaning of State constitutional and statutory limitations.

(b) The pledge, charge, lien, trusts and assignments made herein with respect to the Trust Estate shall be valid and binding, and shall be deemed continuously perfected from the time of issuance of the Bonds, and the Trust Estate shall thereupon be immediately subject to the pledge, charge, lien, trust and assignment created hereby upon receipt thereof by or for the City or by the Trustee or the Paying Agent hereunder, without any physical delivery, segregation thereof or further act, and such pledge, charge, lien, trust and assignment shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City, irrespective of whether such parties have notice thereof.

(c) The Bonds shall be equally and ratably payable and secured hereunder without priority by reason of date of adoption of this Indenture or any Supplemental Indenture authorizing their issuance or by reason of their number, date, date of issue, execution, authentication or sale, or otherwise.

Section 202. Authorized Amount. There is hereby authorized the issuance of bonds of the City to be designated "General Obligation Bonds, Series 2006A" in the principal amount of [Three Million One Hundred Sixty-Five Thousand Dollars (\$3,165,000)] (the "Bonds"). No Bonds may be issued under the provisions of this Indenture except in accordance with this Article II. The total principal amount of Bonds that may be issued hereunder is hereby limited to [\$3,165,000], except as provided in Section 209 hereof.

Section 203. Details of the Bonds. The Bonds (i) shall be designated "City of Fayetteville, Arkansas General Obligation Bonds, Series 2006A," (ii) shall be in the aggregate principal amount of [\$3,165,000], (iii) shall be dated as of [July 15], 2006, (iv) shall bear interest from such date at the rates hereinafter provided until paid, payable semiannually on [January 1 and July 1] of each year, commencing [January 1, 2007], (v) shall be issued in denominations of \$5,000 each, or any integral multiple thereof, (vi) shall be numbered from R06A-1 upwards in order of issuance according to the records of the Trustee, and (vii) shall mature, unless sooner redeemed in the manner in this Indenture set forth, on [July] 1 in each of the years and in the amounts set forth in the following table, which table also sets forth the interest rates for the Bonds:

<u>Year</u> <u>([July] 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2007	\$	%
2008		%
2009		%
2010		%
2011		%

Section 204. Bond Form. The Bonds shall be initially issued as fully registered Bonds, without coupons, in the form of [five] typewritten bond certificates (one for each maturity) to be delivered to the Securities Depository. Each such certificate shall be initially registered in the name of the nominee of the Securities Depository, and no Beneficial Owner will receive a certificate representing his interest in the Bonds, except upon the occurrence of the events described in Section 216 hereof. Beneficial Owners shall be deemed to have waived any right to receive a bond certificate except under the circumstances described in Section 216. The Bonds and the Trustee's certificate of authentication to be endorsed thereon shall be in substantially the form set forth in Exhibit A hereto, with appropriate variations, insertions and omissions as permitted or required by this Indenture.

Section 205. Payment. The Bonds shall be payable, with respect to principal, premium, if any, and interest in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. The principal of and premium, if any, on the Bonds shall be payable upon surrender thereof at the principal corporate trust office of the Trustee. Payment of interest on each Bond shall be made by check or draft mailed to the registered owner of such Bond as of the applicable Record Date at his address as it appears on the registration books maintained by the Trustee. For purposes of this Indenture, interest on the Bonds shall be deemed to accrue on the basis of a 360-day year of

twelve 30-day months. So long as the Securities Depository or its nominee is the sole registered owner of the Bonds, payment of interest thereon shall be made by wire transfer of immediately available funds by the Paying Agent to the Securities Depository or its nominee.

Section 206. Execution. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk and shall have impressed or imprinted thereon the seal of the City. A facsimile signature shall have the same force and effect as if manually signed. In case any officer whose manual signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such official had remained in office until delivery.

Section 207. Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A attached hereto duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid and obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 208. Delivery of the Bonds. The City shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds and deliver said Bonds to the Securities Depository as may be directed in this Section 208.

(a) Prior to the delivery or original issuance by the Trustee of any authenticated Bonds, there shall be delivered to the Trustee:

- (1) An original executed counterpart of this Indenture;
- (2) Original executed counterparts of the Continuing Disclosure Agreement and the Tax Regulatory Agreement;
- (3) A Certificate directing the Trustee to authenticate the Bonds and containing instructions as to the delivery of the Bonds upon payment to the Trustee, for the account of the City, of a sum specified in such Certificate;
- (4) A copy, duly certified by the City Clerk, of the proceedings of the City authorizing the issuance of the Bonds;
- (5) A written opinion of Bond Counsel approving the legality of the Bonds;
and
- (6) Such further documents and certificates as may be required by the Original Purchaser of the Bonds.

(b) Simultaneously with the delivery of the Bonds, the Trustee shall apply the proceeds thereof as follows:

(1) The amount, if any, received as accrued interest on the Bonds shall be deposited in the Bond Fund;

(2) An amount equal to \$_____ shall be deposited in the Costs of Issuance Fund for payment of Costs of Issuance as directed by a Certificate of the City; and

(3) The balance of said proceeds, in the amount of \$_____, shall be deposited in the Project Fund.

Section 209. Mutilated, Destroyed or Lost Bonds. In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new Bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed or lost, upon the Holder's paying the reasonable expenses and charges of the City and the Trustee in connection therewith, and, in the case of a Bond destroyed or lost, filing by the Holder with the Trustee evidence satisfactory to the Trustee that such Bonds were destroyed or lost, and of the Holder's ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Bond. In the event any such Bonds shall have matured, instead of issuing a new Bond, the City may pay the same without the surrender thereof. Upon the issuance of a new Bond under this Section 209, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Section 210. Registration and Transfer of Bonds. The City hereby constitutes and appoints the Trustee as Bond registrar of the City, and as Bond registrar the Trustee shall keep books for the registration and for the transfer of the Bonds as provided in this Indenture at the principal corporate trust office of the Trustee. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the registered owner thereof, or the owner's legal representative, and neither the City, the Trustee nor the Bond registrar shall be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Bonds may be transferred on the books of registration kept by the Trustee by the registered owner in person or by the owner's duly authorized attorney, upon surrender thereof, together with a written instrument of transfer duly executed by the registered owner or the owner's duly authorized attorney. Upon surrender for transfer of any Bond at the principal corporate office of the Trustee, the City shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds in the same aggregate principal amount and of any authorized denomination or denominations.

Bonds may be exchanged at the principal corporate trust office of the Trustee for an equal aggregate principal amount of Bonds of any other authorized denomination or denominations with corresponding maturities. The City shall execute and the Trustee shall authenticate and deliver Bonds which the Bondholder making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding. The execution by the City of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond.

Such transfers of registration or exchanges of Bonds shall be without charge to the Holders of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Holder of the Bond requesting such transfer or exchange as a condition precedent to the exercise of such privilege.

The Trustee shall not be required to transfer or exchange any Bond during the period from and including a Record Date to the next succeeding interest payment date of such Bond nor to transfer or exchange any Bond after the mailing of notice calling such Bond for redemption has been made, and prior to such redemption.

If the Securities Depository or its nominee is the sole registered owner of the Bonds, transfers of ownership and exchanges shall be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. In such case, the Trustee shall deal with the Securities Depository as representative of the Beneficial Owners of the Bonds for purposes of exercising the rights of Bondholders hereunder, and the rights of the Beneficial Owners of such Bonds held by the Securities Depository or its nominee shall be limited to those established by law and agreements between such Beneficial Owners and the Securities Depository and its Participants. Requests, consents and directions from, and votes of, the Securities Depository or its nominee as representative shall not be deemed inconsistent if they are made with respect to different Participants or Beneficial Owners.

Section 211. Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange, if surrendered to the Trustee, shall be promptly cancelled by it, and, if surrendered to any person other than the Trustee, shall be delivered to the Trustee and, if not already cancelled, shall be promptly cancelled by it. The City may at any time deliver to the Trustee for cancellation any Bonds previously authenticated and delivered hereunder, which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Trustee. All cancelled Bonds held by the Trustee shall be disposed of as directed by the City. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the City of any Bonds, the Trustee may, upon the written request of the City, in lieu of such cancellation and delivery, destroy such Bonds in the presence of any officer of the City (but only if the City shall so require), and deliver a certificate of such destruction to the City.

Section 212. Additional General Obligation Indebtedness. Subject only to the limitations of Amendment 78 and the Act, the City may from time to time issue or incur additional bonds, notes or other evidence of indebtedness secured by the general revenues of the City.

Section 213. [RESERVED].

Section 214. [RESERVED].

Section 215. Temporary Bonds. Until Bonds in definitive form are ready for delivery, the City may execute, and upon the request of the City, the Trustee shall authenticate and deliver, subject to the provisions, limitations and conditions set forth herein, one or more Bonds in temporary form, whether printed, typewritten, lithographed or otherwise produced, substantially in the form of the definitive Bonds, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bond in temporary form shall be entitled to the lien and benefit of this Indenture. Upon the presentation and surrender of any Bond or Bonds in temporary form, the City shall, without unreasonable delay, prepare, execute and deliver to the Trustee and the Trustee shall authenticate and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Trustee without making any charge therefor to the Holder of such Bond in temporary form.

Section 216. Book-Entry Bonds; Securities Depository. The Bonds shall initially be registered to Cede & Co., the nominee for The Depository Trust Company, New York, New York (the "Securities Depository"), and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Trustee issues replacement bonds as provided in this Section 216. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Trustee authenticates and delivers replacement bonds to the Beneficial Owners as described in the following paragraph.

If the City or the Trustee determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a Book-Entry System to the exclusion of any Bonds being issued to any Bondholder other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, or (2) if the Trustee receives written notice from Participants representing interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a Book-Entry System to the exclusion of any Bonds being issued to any Bondholder other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Trustee shall notify the Bondholders of such determination or such notice and of the availability of certificates to Bondholders requesting the same, and the Trustee shall register in the name of and authenticate and deliver replacement bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each; provided, that in the case of a determination under (A) or (B) of this paragraph, the City or the Trustee may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of replacement bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to

be imposed upon and performed by the Trustee, to the extent applicable with respect to such replacement bonds. If the Securities Depository resigns and the City, the Trustee or Bondholders are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Trustee shall authenticate and cause delivery of replacement bonds to Bondholders, as provided herein. The Trustee may rely conclusively on information from the Securities Depository and its Participants as to the names and addresses of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of replacement bonds shall be paid for by the City.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Trustee upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

ARTICLE III

REDEMPTION OF BONDS BEFORE MATURITY

Section 301. Redemption of the Bonds. (a) The Bonds shall be subject to redemption prior to maturity as follows:

(i) The Bonds shall be redeemed prior to maturity, in whole or in part, on any interest payment date, in inverse order of maturity and by lot in such manner as the Trustee shall determine within a maturity, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption, from moneys in the Project Fund in excess of the amount needed to complete the Project, which moneys shall be transferred to the Bond Fund pursuant to Section 502 hereof.

(ii) [OPTIONAL REDEMPTION??]

Section 302. Notice. Notice of the call for any redemption, identifying the Bonds or portions thereof being called and the date on which they shall be presented for payment, shall be mailed by the Trustee by first class mail (or, so long as the Securities Depository or its nominee is the sole registered owner of the Bonds, by any other means acceptable to the Securities Depository, including facsimile) to the registered owner of each such Bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure or defect has

occurred. Any notice mailed as provided in this Section 302 shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice.

Section 303. Selection of Bonds to be Redeemed. If less than all of the Bonds of like maturity, interest rate and otherwise identical payment terms shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by lot by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond of a denomination of larger than the minimum denomination may be redeemed in the principal amount of such minimum denomination or a multiple thereof, and that for purposes of selection and redemption, any such Bond of a denomination larger than the minimum denomination shall be considered to be that number of separate Bonds of such minimum denomination which is obtained by dividing the principal amount of such Bond by such minimum denomination. So long as the Securities Depository or its nominee is the sole registered owner of the Bonds, the procedures established by the Securities Depository shall control with respect to the selection of the particular Bonds to be redeemed.

Section 304. Surrender of Bonds Upon Redemption. Notice having been given in the manner and under the conditions hereinabove provided, and moneys for payment of the redemption price being held by the Trustee as provided in this Indenture (i) the Bonds or portions of Bonds so called for redemption shall, on the date fixed for redemption designated in such notice, become due and payable at the redemption price provided for redemption of such Bonds, and interest on such Bonds or portions of Bonds so called for redemption shall cease to accrue, (ii) upon surrender of the Bonds or portions of Bonds so called for redemption in accordance with such notice, such Bonds or portions of Bonds shall be paid at the applicable redemption price, (iii) such Bonds or portions of Bonds shall cease to be entitled to any lien, benefit or security under this Indenture, and (iv) the owners of said Bonds or portions of Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

Section 305. Redemption in Part. Any Bond which is to be redeemed only in part shall be surrendered to the Trustee (with, if the City or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the City and the Trustee duly executed by, the owner thereof or his attorney duly authorized in writing), and the appropriate officials of the City shall execute and the Trustee shall authenticate and deliver to the owner of such Bond, without service charge, a new Bond or Bonds of any authorized denomination or denominations, having the same maturity and interest rate as requested by such owner, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

ARTICLE IV

GENERAL COVENANTS AND REPRESENTATIONS

Section 401. Payment of Principal, Premium, if any, and Interest. The City covenants that it will promptly pay or cause to be paid the principal of and premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. The

principal, premium, if any, and interest (except interest paid from the proceeds from the sale of the Bonds and accrued interest) are payable from the Trust Estate which is hereby specifically pledged to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or this Indenture should be considered as assigning or pledging any funds or assets of the City other than the Trust Estate. Anything in this Indenture to the contrary notwithstanding, it is understood that whenever the City makes any covenants involving financial commitments it pledges no funds or assets other than the Trust Estate in the manner and to the extent herein specified, but nothing herein shall be construed as prohibiting the City from using any other funds or assets.

Section 402. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder, and in all ordinances pertaining hereto. The City covenants that it is duly authorized under the Constitution and laws of the State of Arkansas, including particularly and without limitation Amendment 78 and the Act, to issue the Bonds authorized hereby and to execute this Indenture and to make the covenants in the manner and to the extent herein set forth, that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the Holders and owners thereof are and will be valid and enforceable general obligations of the City according to the import thereof.

Section 403. Instruments of Further Assurance. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, ordinances, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming of the Trust Estate.

Section 404. Recordation and Filing. To the extent necessary, the City covenants that it will cause this Indenture, such security agreements, financing statements, and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the owners of the Bonds and the rights of Trustee hereunder, and to perfect the security interest created by this Indenture.

Section 405. Inspection of Books. The City shall keep proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Project and the Funds established by this Indenture.

Section 406. Tax Covenants. The City shall not use or permit the use of any Bond proceeds or any other funds of the City, directly or indirectly, in any manner, and will not take or permit to be taken any other action or actions which would adversely effect the exclusion of interest on any Bond from gross income for federal income tax purposes. No part of the proceeds of the Bonds shall at any time be used, directly or indirectly, to acquire securities or obligations the acquisition of which would cause any of such Bonds to be an "arbitrage bond" as

defined in Sections 148(a) and (b) of the Code. The City agrees that so long as any of the Bonds remain Outstanding, it will comply with the provisions of the Tax Regulatory Agreement.

Section 407. Trustee's and Paying Agent's Fees and Expenses. Subject to the provisions of Section 902 hereof, the City hereby agrees and covenants to make payments for the fees, expenses and charges of the Trustee and Paying Agent, if any, as authorized and provided by this Indenture. The City is to make payments on statements rendered by the Trustee and Paying Agent directly to the Trustee and Paying Agent.

Section 408. Construction of Project; Certification of Completion Date. The City hereby covenants to use its best efforts to acquire, construct and equip the Project with all reasonable dispatch and to use its best efforts to cause the acquisition, construction and equipping of the Project to be completed as soon as may be practicable, but in any case within a period not to exceed three years after the date of issuance of the Bonds, delays caused by *force majeure* only excepted, but if for any reason such acquisition, construction and equipping is not completed within said period, there shall be no diminution or postponement of payments required hereunder to be made by the City. Promptly after the Completion Date, the City shall submit to the Trustee the certificate of a Qualified Engineer which shall specify the Completion Date and shall state that acquisition, construction and equipping of the Project has been completed and the Project Costs have been paid, except for any Project Costs which have been incurred but are not then due and payable, or the liability for the payment of which is being contested or disputed by the City, and for the payment of which the Trustee is directed to retain specified amounts of moneys in the Project Fund. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date thereof or which may subsequently come into being.

Section 409. Encumbrances. The City covenants that it will not create or suffer to be created any lien or charge upon the Trust Estate, except in accordance with the provisions of this Indenture.

Section 410. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Indenture to the contrary, failure of the City or the Trustee to comply with the provisions of the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder; however, the Trustee may (and at the request of the Original Purchaser of the Bonds or the owners of at least 25% in aggregate Outstanding principal amount of the Bonds, shall) or any Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City or the Trustee, as the case may be, to comply with its obligations under this Section 410. For purposes of this Section 410 only, "Beneficial Owner" shall mean any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including Persons holding Bonds through nominees, depositories or other intermediaries) or (b) is treated as the owner of Bonds for federal income tax purposes.

ARTICLE V

FUNDS AND DEPOSITS

Section 501. Creation of Funds. (a) There are hereby created and established the following Funds:

- (i) Project Fund;
- (ii) Bond Fund;
- (iii) Cost of Issuance Fund; and
- (iv) Rebate Fund.

(b) All Funds shall be held by the Trustee, which shall hold and maintain said Funds in trust, for the use and benefit of the Bondholders and the City, but subject to the permitted applications expressed herein.

Section 502. Project Fund. (a) The Trustee shall deposit a portion of the proceeds of the Bonds to the credit of the Project Fund in accordance with the written directions of the City given as provided in Section 208 of this Indenture.

(b) Moneys credited to the Project Fund shall be expended only as set forth in this Section 502.

(c) Amounts in the Project Fund shall be expended and applied for the payment of Project Costs. Disbursements shall be made from the Project Fund on the basis of consecutively numbered Requisitions in the form attached hereto as Exhibit B signed by an Authorized Representative. Requisitions may be submitted to the Trustee by certified mail, first class mail or facsimile transmission. If the Trustee deems that a Requisition submitted by the City is sufficient pursuant to this Section 502, the amount requested thereunder shall be disbursed in payment of the Project Costs set forth therein, or in reimbursement of such Project Costs, within two (2) Business Days of the date of receipt of such Requisition by the Trustee. Each Requisition shall specify:

- (i) the name of the person or party to whom payment is to be made and the purpose of the payment;
- (ii) the amount to be paid thereunder;
- (iii) that such amount has not been previously paid by the City and is justly due and owing to the person(s) named therein as a proper payment or reimbursement of a Project Cost; and
- (iv) that no Event of Default exists under the Indenture and that, to the knowledge of the Authorized Representative, no event has occurred and continues

which with notice or lapse of time or both would constitute an Event of Default under the Indenture.

(d) The Trustee shall keep full and complete records concerning and reflecting all disbursements from the Project Fund and shall file an accounting of said disbursements if and when requested by the City. The Trustee shall only make payments from the Project Fund pursuant to and in accordance with Requisitions. In making payments from the Project Fund, the Trustee may rely on any Requisitions delivered to it pursuant to this Section 502, and the Trustee shall be relieved of all liability relating to payments made in accordance with such Requisitions and any supporting certificate or certificates requested by the Trustee without physical inspection of the Project. Within ninety (90) days following completion of the Project, the City shall deliver to the Trustee its Certificate stating that the Project is complete and the Trustee shall transfer the remaining moneys in the Project Fund (save and except moneys needed to satisfy unpaid Project Costs) to the Bond for application to the retirement of the Bonds by redemption or purchase, as provided by Section 301 hereof.

(e) Upon the occurrence and continuance of an Event of Default or the occurrence and continuance of an event which with notice or lapse of time or both would constitute an Event of Default, amounts on deposit in the Project Fund shall not be disbursed but shall instead be applied to the payment of debt service or the redemption price of the Bonds.

Section 503. [RESERVED].

Section 504. Bond Fund. (a) No later than the 25th day of each month, commencing [July 25], 2006, the City shall transfer to the Trustee for deposit to the Bond Fund an amount equal to the sum of (i) one-sixth ($1/6$) of the interest on the Outstanding Bonds due on the next interest payment date and (ii) one-twelfth ($1/12$) of the next scheduled principal maturity of Outstanding Bonds. Required deposits into the Bond Fund shall be reduced by investment earnings, if any, therein and by any accrued interest deposited to the Bond Fund upon the initial sale of the Bonds. In the event there shall be a deficiency in a particular month to make the required transfer described above, then such deficiency shall be added to the required deposit for the next month.

(b) Moneys credited to the Bond Fund shall be expended only as set forth in this Section 504.

(c) (i) On each interest payment date for any of the Bonds Outstanding, the Trustee shall pay out of moneys credited to the Bond Fund the amounts required for the payment of interest on the Bonds on such date, and on each redemption date, the amounts required for the payment of accrued interest on the Bonds then to be redeemed or purchased unless the payment of such accrued interest shall be otherwise provided for, and such amounts shall be applied to such payments.

(ii) On each principal payment or redemption date for any of the Bonds Outstanding, the Trustee shall pay out of moneys credited to the Bond Fund the amounts required for the payment of principal and premium, if any, due on the Bonds on such date and such amounts shall be applied to such payments.

(d) All payments made by the City to the Trustee pursuant to this Section 504 shall be made in immediately available funds.

Section 505. Cost of Issuance Fund. There shall be deposited to the credit of the Cost of Issuance Fund all moneys received for said Fund pursuant to Section 208 hereof. The Trustee shall pay those Costs of Issuance as directed by the City pursuant to a Certificate delivered on the date of issuance of the Bonds. After all Costs of Issuance have been paid (and in any event not later than October 1, 2006), any remaining moneys in the Cost of Issuance Fund shall be transferred to the Bond Fund.

Section 506. [RESERVED].

Section 507. Rebate Fund. (a) The Trustee shall establish and maintain, separate and apart from any other Funds established and maintained hereunder, a Fund to be designated as the Rebate Fund, which Fund is not pledged to the payment of any Bonds. Subject to the transfer provisions provided in subsection (c) below, all moneys at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Amount (as defined in the Tax Regulatory Agreement), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 507, by Section 406, and by the Tax Regulatory Agreement (which are incorporated herein by reference).

(b) There shall be deposited in the Rebate Fund the amount of all income or gain on moneys deposited in any of the Funds established by this Indenture which is required to be rebated to the United States and is designated for deposit therein, as calculated by the City to be owing to the United States pursuant to the Tax Regulatory Agreement.

(c) The Trustee, upon receipt of written instructions from the Mayor or Finance Director of the City, shall pay to the United States out of amounts in the Rebate Fund such amounts as are required pursuant to the Tax Regulatory Agreement.

(d) Any moneys remaining in the Rebate Fund after payment to the United States, within sixty (60) days after the date on which the last Bond is redeemed, of one hundred percent (100%) of the rebate amount as described in Section 148(f)(2) of the Code, shall be transferred to the City.

(e) The Trustee, as instructed by Certificate of the City, shall invest all amounts held in the Rebate Fund in Investment Securities, subject to the restrictions set forth in the Tax Regulatory Agreement. Money shall not be transferred from the Rebate Fund except as provided in subsection (c).

(f) Notwithstanding any other provision of this Indenture, the obligation to remit the Rebate Amount to the United States and to comply with all other requirements of this Section 507, Section 406 and the Tax Regulatory Agreement shall survive the defeasance or payment in full of the Bonds.

Section 508. [RESERVED].

Section 509. Cessation of Fund Deposits. When the moneys in the Bond Fund shall be and remain sufficient to pay in full the principal and interest on all Bonds then Outstanding in accordance with Article VII of this Indenture, together with the required fees and expenses to be paid or reimbursed to the Trustee and any Paying Agent, the City shall have no further obligation to make further payments into said Fund.

ARTICLE VI

INVESTMENTS

Section 601. Investment of Moneys. At the direction of the City or absent such direction, the Trustee shall invest moneys in Funds held by the Trustee in Investment Securities with maturity or redemption dates consistent with the times at which said moneys will be required for the purposes provided in this Indenture. Moneys in separate Funds may be commingled for the purpose of investment.

Section 602. Investment Earnings. Subject to the provisions of the Tax Regulatory Agreement and Article V hereof, Investment Securities purchased with moneys held in or attributable to any Fund held by the Trustee under the provisions of this Indenture shall be deemed at all times to be a part of such Fund and the income or interest earned, profits realized or losses suffered by a Fund due to the investment thereof shall be retained in, credited or charged, as the case may be, to such Fund unless otherwise provided pursuant to this Indenture.

Section 603. Valuation of Funds. In determining the value of any Fund held by the Trustee under this Indenture, the Trustee shall credit Investment Securities at the fair market value thereof, as determined by the Trustee by any method selected by the Trustee in its reasonable discretion. No less frequently than annually, and in any event within thirty (30) days prior to the end of each Fiscal Year, the Trustee shall determine the value of each Fund held hereunder and shall report such determination to the City.

The Trustee shall sell or present for redemption any Investment Securities as necessary in order to provide money for the purpose of making any payment required hereunder, and the Trustee shall not be liable for any loss resulting from any such sale.

Section 604. Responsibility of Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it at the direction of the City.

ARTICLE VII

DISCHARGE OF LIEN

Section 701. Discharge of Lien. If the City shall pay or cause to be paid to the owners of the Bonds the principal, premium, if any, and interest to become due thereon at the times and in the manner stipulated therein, and if the City shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it on its part, then these presents and the estate and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the City such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the City the estate hereby conveyed, and assign and deliver to the City any property at the time subject to the lien of this Indenture which may then be in its possession, except moneys or Government Securities held by it for the payment of the principal of and premium, if any, and interest on the Bonds.

Section 702. Bonds Deemed Paid. Any Bond shall be deemed to be paid within the meaning of this Article VII when payment of the principal of and premium, if any, and interest on such Bond (whether at maturity or upon redemption as provided in this Indenture, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment, (1) cash sufficient to make such payment or (2) Government Securities (provided that such deposit will not affect the tax-exempt status of the interest on any of the Bonds or cause any of the Bonds to be classified as "arbitrage bonds" within the meaning of Section 148(a) of the Code, as reflected in an opinion of Bond Counsel delivered to the Trustee), maturing as to principal and interest in such amount and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee and any Paying Agent pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee and any said Paying Agent.

Section 703. Non-Presentment of Bonds. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if there shall have been deposited with the Trustee for that purpose, or left in trust if previously so deposited, funds sufficient to pay the principal thereof, and premium, if any, together with all interest unpaid and due thereon, to the due date thereof, for the benefit of the Holder thereof, all liability of the City to the Holder thereof for the payment of the principal thereof, premium if any, and interest thereon, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Holder of such Bonds, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, the Bonds.

ARTICLE VIII

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 801. Events of Default. Each of the following events shall constitute and is referred to in this Indenture as an "Event of Default":

- (a) Default in the due and punctual payment of any interest on any Bond;
- (b) Default in the due and punctual payment of the principal of or premium, if any, on any Bond, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;
- (c) Default in the payment of any other amount required to be paid under this Indenture or the performance or observance of any other of the covenants, agreements or conditions contained in this Indenture, or in the Bonds issued hereunder, and continuance thereof for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied shall have been given to the City by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of Bondholders of not less than 51% in aggregate principal amount of the Bonds then Outstanding, unless the Trustee, or the Trustee and Holders of an aggregate principal amount of Bonds not less than the aggregate principal amount of Bonds the Holders of which requested such notice, as the case may be, shall agree in writing to an extension of such period prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Trustee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such period and is being diligently pursued;
- (d) The filing of a petition in bankruptcy by or against the City under the United States Bankruptcy Code or the commencement of a proceeding by or against the City under any other law concerning insolvency, reorganization or bankruptcy; and
- (e) If the State has limited or altered the rights of the City pursuant to the Act, as in force on the date of this Indenture, to fulfill the terms of any agreements made with the Trustee or the Bondholders or in any way impaired the rights and remedies of the Trustee or the Bondholders while any Bonds are Outstanding.

The term "default" as used in clauses (a), (b) and (c) above shall mean default by the City in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Indenture or in the Bonds Outstanding hereunder, exclusive of any period of grace required to constitute a default an "Event of Default" as hereinabove provided.

Section 802. Acceleration. Upon the occurrence of an Event of Default, the Trustee may, and upon the written request of the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder shall, by notice in writing delivered to the City, declare the principal of all Bonds then Outstanding, together with the interest accrued thereon,

immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

Section 803. Other Remedies; Rights of Bondholders. Upon the occurrence of an Event of Default, the Trustee may, as an alternative, pursue any available remedy by suit at law or in equity, including, without limitation, mandamus to enforce the payment of the principal of and premium, if any, and interest on the Bonds then Outstanding hereunder.

If an Event of Default shall have occurred, and if it shall have been requested so to do by the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder and if it shall have been indemnified as provided in Section 901(l) hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred upon it by this Section 803 as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Section 804. Right of Bondholders to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceeding hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 805. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled to the appointment of a receiver or receivers of the Trust Estate and of the tolls, rents, revenues, issues, earnings, income, products and profits thereof pending such proceedings with such powers as the court making such appointment shall confer.

Section 806. Waiver. In case of an Event of Default on its part, as aforesaid, to the extent that such rights may then lawfully be waived, neither the City nor anyone claiming

through the City or under the City shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or thereafter in force, in order to prevent or hinder the enforcement of this Indenture, but the City, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisement and redemption to which it may be entitled under the laws of the State.

Section 807. Application of Moneys. Available moneys remaining after discharge of costs, charges and liens prior to this Indenture shall be applied by the Trustee as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

First: To the payment to the Persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

Second: To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege of any Bond over any other Bond and without preference or priority of principal over interest or of interest over principal; and

Third: To the payment of the interest on and the principal of the Bonds, and to the redemption of Bonds, all in accordance with the provisions of Article V of this Indenture.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied first to the payment of the interest then due and unpaid upon the Bonds, and then to the payment of the principal then due and unpaid upon the Bonds, in each case without preference or priority of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article VIII then, subject to the provisions of paragraph (b) of this Section 807, in the event that the principal of all the Bonds shall later become due or be

declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section 807.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section 807, such moneys shall be applied by it at such times, and from time to time, as it shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 808. Remedies Vested in Trustee. All rights of action (including the right to file proof of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Bondholders hereby secured, and any recovery of judgment shall be for the equal benefit of the Holders of all Outstanding Bonds.

Section 809. Rights and Remedies of Bondholders. No Bondholder shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 901, or of which by said subsection it is deemed to have notice, nor unless such default shall have become an Event of Default and the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in subsection (l) of Section 901, nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by action of the Holder or Holders or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, held and maintained in the manner herein provided for the equal benefit of the Holders of all Bonds Outstanding hereunder. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholders to enforce the payment of the principal of and premium, if any, and interest on any Bonds at and after the maturity thereof, or

the obligation of the City to pay the principal of and premium, if any, and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time and place in said Bonds expressed.

Section 810. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the City and the Trustee shall be restored to their former positions and rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken, except to the extent the Trustee is legally bound by such adverse determination.

Section 811. Waivers of Events of Default. The Trustee may, and upon the written request of the Holders of not less than 51% in principal amount of all Bonds Outstanding hereunder shall, waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal; provided, however, there shall not be waived any Event of Default described in clause (a) or (b) of the first paragraph of Section 801 hereof, unless prior to such waiver or rescission all arrears of principal (due otherwise than by declaration) and interest, and all expenses of the Trustee and Paying Agent, shall have been paid or provided for. In case of any such waiver or rescission the City, Trustee and the Bondholders shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right subsequent thereon.

ARTICLE IX

TRUSTEE AND PAYING AGENTS

Section 901. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following expressed terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any duties required of it by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and its duties hereunder, and may in all cases pay reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. Reimbursement of such compensation paid by the Trustee is subject to the provisions of Section 902 hereof. The Trustee may act upon the opinion or advice of any attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care, or, if selected or retained by the City prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (g) of this Section 901, or of which by said subsection the Trustee is deemed to have notice, approved by the Trustee in the exercise of such care. The Trustee shall not be responsible for any loss or damage resulting from an action or nonaction in accordance with any such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of authentication of the Trustee endorsed on such Bonds), or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value of the title of the property herein conveyed or otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property herein conveyed pursuant to any provision of this Indenture, it shall use due diligence in preserving such property; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions and agreements aforesaid as to the condition of the property herein conveyed.

(c) The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it, in the exercise of reasonable care, to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of the owner of any Bond secured hereby, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Certificate of the City signed by its Mayor and attested by the City Clerk as sufficient evidence of the facts therein contained and, prior to the occurrence of a default of which it has been notified as provided in subsection (g) of this Section 901, or of which by that subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but may at its discretion, at the reasonable expense of the City, in every case secure such further evidence as it may think necessary or advisable but shall in no case be bound to secure the same. The Trustee may accept a certificate of the City Clerk of the City under its seal to the effect that a resolution in the form therein set forth has been adopted by the City as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee, and the Trustee shall be answerable only for its own gross negligence or willful misconduct.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder (except for defaults under clause (a) or (b) of the first paragraph of Section 801 hereof as to which the Trustee shall be deemed to have notice) unless the Trustee shall be specifically notified in writing of such default by the City or by the Holders of at least 10% in aggregate principal amount of Bonds Outstanding

hereunder, and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered to the principal corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no such default except as aforesaid.

(h) [Reserved].

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all books, papers and records of the City pertaining to its financial condition or pertaining to the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(l) Before taking such action hereunder, the Trustee may require that it be furnished an indemnity bond satisfactory to it for the reimbursement to it of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee, by reason of any action so taken by the Trustee.

Section 902. Fees, Charges and Expenses of Trustee and Paying Agents; Trustee's Prior Lien. (a) Subject to subsection (b) of this Section 902, the City shall, from moneys lawfully available therefor, pay to the Trustee and any Paying Agent reasonable compensation for all services performed hereunder and also all reasonable expenses, charges and other disbursements and those of their attorneys, agents and employees incurred in and about the administration and execution of the trusts hereby created and the performance of the powers and duties hereunder and, to the extent permitted by law and from moneys lawfully available therefor, shall indemnify and save the Trustee harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder. With respect to the Bonds, the Trustee's initial authentication fee shall be \$_____ and the annual administration fee of the Trustee shall be up to, but not exceeding, \$_____. If the City shall fail to make any payment required by this subsection (a), the Trustee may make such payment from any moneys in its possession under the provisions of this Indenture and shall be entitled to a preference therefor over any of the Bonds Outstanding hereunder. The City shall not be required to indemnify the

Trustee against any liabilities which the Trustee may incur as a result of negligent or wrongful acts or omissions of the Trustee.

(b) The City shall pay to the Trustee compensation for its services as described in Section 902(a), provided that such compensation, together with all expenses, charges and other disbursements of the Trustee and its attorneys, agents and employees and all reimbursements to the Trustee for all costs and other disbursements as described in Section 901(a) hereof shall not exceed \$_____ annually (not including the initial authentication fee) without the prior written approval of the City, which approval shall not be unreasonably withheld. If the Trustee wishes to consult with or retain counsel for any purpose hereunder whose anticipated fees, together with all other compensation, disbursements and reimbursements of the Trustee and its attorneys, agents and employees to be paid by the City hereunder, shall exceed \$_____ annually, then such counsel shall have to be acceptable to the City and such fees shall have to be approved by the City as described above.

Section 903. Additional Duties of Trustee. (a) In addition to the other duties of the Trustee described in this Indenture, it shall be the duty of the Trustee, on or before the tenth day of each month after the month in which the Bonds are delivered, to file with the City a statement setting forth in respect of the preceding calendar month:

(i) the amount withdrawn or transferred by it and the amount deposited with it on account of each Fund held by it under the provisions of this Indenture;

(ii) the amount on deposit with it at the end of such month to the credit of each such Fund;

(iii) a brief description of all obligations held by it as an investment of moneys in each such Fund;

(iv) the amount applied to the purchase or redemption of Bonds under the provisions of this Indenture and a description of the Bonds or portions of Bonds so purchased or redeemed; and

(v) any other information that the City may reasonably request, including, but not limited to, submittal of monthly statements of activity relating to the Bonds. Such information shall also be provided at the direction of the City to one additional designated entity.

All records and files pertaining to each such Fund in the custody of the Trustee hereunder shall be open at all reasonable times to the inspection of the City and its agents and representatives, and the City may make copies thereof.

(b) The Trustee additionally shall be responsible for the preparation and timely distribution of any and all forms and reports required by law to all Bondholders, the State and the Internal Revenue Service in connection with the payment to the Bondholders of interest on the Bonds.

Section 904. Notice to Bondholders of Default. If a default occurs of which the Trustee is pursuant to the provisions of Section 901(g) deemed to have or is given notice, the Trustee shall promptly make demand upon the City and give notice to each owner of Bonds then Outstanding.

Section 905. Intervention by Trustee. In any judicial proceeding to which the City is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of Bonds issued hereunder, the Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by the Holders of at least 51% of the aggregate principal amount of Bonds Outstanding hereunder. The rights and obligations of the Trustee under this Section 905 are subject to the approval of the court having jurisdiction in the premises.

Section 906. Merger or Consolidation of Trustee. Any bank or trust company to which the Trustee may be merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any bank or trust company resulting from any such sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor trustee shall have capital and surplus of at least \$40 million.

Section 907. Resignation by Trustee. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving written notice to the City and the Bondholders, and such resignation shall take effect upon the appointment of a successor trustee by the Bondholders or by the City. Such notice may be served personally or sent by registered mail (to the City) or first class mail (to the Bondholders).

Section 908. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the City, and signed by the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder.

Section 909. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by the court, a successor may be appointed by the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding hereunder, by an instrument or concurrent instruments in writing signed by such Holders, or by their attorneys in fact, duly authorized; provided, nevertheless, that in case of such vacancy the City by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, shall appoint a temporary trustee to fill such vacancy until a successor trustee shall be appointed by the Bondholders in the manner above provided. Any such temporary trustee appointed by the City shall immediately and without further act be superseded

by the trustee appointed by such Bondholders. Every such temporary trustee and every such successor trustee shall be a trust company or bank in good standing, having capital and surplus of not less than \$40 million.

Section 910. Concerning Any Successor Trustee. Every successor or temporary trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City an instrument in writing accepting such appointment hereunder, and thereupon such successor or temporary trustee, without any further act or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the City or of its successor trustee, execute and deliver an instrument transferring to such successor all the estate, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor trustee shall deliver all securities, moneys and any other property held by it as trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such instruments in writing shall, on request, be executed, acknowledged, and delivered by the City.

Section 911. Reliance Upon Instruments. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted and relied upon by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

Section 912. Appointment of Co-Trustee. The City and the Trustee shall have power to appoint, and upon the request of the Trustee the City shall for such purpose join with the Trustee in the execution of all instruments necessary or proper to appoint, another corporation or one or more Persons approved by the Trustee, either to act as co-trustee or co-trustees jointly with the Trustee of all or any of the property subject to the lien hereof, with such powers as may be provided in the instrument of appointment and to vest in such corporation or Person or Persons as such co-trustee any property, title, right or power deemed necessary or desirable. In the event that the City shall not have joined in such appointment within fifteen (15) days after the receipt by it of a request so to do, the Trustee alone shall have the power to make such appointment. Should any deed, conveyance or instrument in writing from the City be required by the co-trustee so appointed for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City. Every such co-trustee shall, to the extent permitted by law, be appointed subject to the following provisions and conditions, namely:

(1) The Bonds shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody of all money and securities pledged or deposited hereunder, shall be exercised solely by the Trustee; and

(2) The Trustee, at any time by an instrument in writing, may remove any such separate Trustee or co-trustee.

Every instrument, other than this Indenture, appointing any such co-trustee shall refer to this Indenture and the conditions of this Article IX expressed, and upon the acceptance in writing by such co-trustee, the co-trustee shall be vested with the estate or property specified in such instrument, jointly with the Trustee (except insofar as local law makes it necessary for any separate trustee to act alone), subject to all the trusts, conditions and provisions of this Indenture. Any such co-trustee may at any time, by an instrument in writing, constitute the Trustee as the co-trustee's agent or attorney-in-fact with full power and authority, to the extent authorized by law, to do all acts and things and exercise all discretion authorized or permitted by the co-trustee, for and on behalf of the co-trustee and in the co-trustee's name. In case any co-trustee shall die, become incapable of acting, resign or be removed, all the estate, properties, rights, powers, trusts, duties and obligations of said co-trustee shall vest in and be exercised by the Trustee until the appointment of a new trustee or a successor to such co-trustee.

Section 913. Designation and Succession of Paying Agents. The Trustee and any other banks or trust companies designated as Paying Agent or Paying Agents in any Supplemental Indenture or in an instrument appointing a successor Trustee shall be the Paying Agent or Paying Agents for the Bonds.

Any bank or trust company with which or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Indenture. If the position of Paying Agent shall become vacant for any reason, the City shall, within thirty (30) days thereafter, appoint such bank or trust company as shall be specified by the City as such Paying Agent to fill such vacancy; provided, however, that, if the City shall fail to appoint such Paying Agent within said period, the Trustee shall make such appointment.

The Paying Agents shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in Section 901 hereof with respect to the Trustee insofar as such provisions may be applicable.

ARTICLE X

SUPPLEMENTAL INDENTURES

Section 1001. Supplemental Indentures Not Requiring Consent of Bondholders. The City and the Trustee may, from time to time and at any time, without the consent of or notice to the Bondholders, enter into Supplemental Indentures as follows:

(a) to cure any formal defect, omission, inconsistency or ambiguity in this Indenture;

(b) to grant to or confer or impose upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with this Indenture as theretofore in effect, provided that no such additional liabilities or duties shall be imposed upon the Trustee without its consent;

(c) to add to the covenants and agreements of, and limitations and restrictions upon, the City in this Indenture other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this Indenture as theretofore in effect;

(d) to confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Indenture, of the Trust Estate or of any other moneys, securities or funds;

(e) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended;

(f) to make such additions, deletions or modifications as may be necessary to assure compliance with Section 148(f) of the Code relating to required rebate to the United States or otherwise as may be necessary to assure exemption from federal income taxation of interest on the Bonds; or

(g) to modify, alter, amend or supplement this Indenture in any other respect which is not materially adverse to the Bondholders and which does not involve a change described in clause (a), (b), (c), (d), (e) or (f) of Section 1002 hereof and which, in the judgment of the Trustee, is not to the prejudice of the Trustee.

Section 1002. Supplemental Indentures Requiring Consent of Bondholders. Subject to the terms and provisions contained in this Section 1002, and not otherwise, the Holders of not less than 2/3 in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the City and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the City for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing herein contained shall permit or be construed as permitting (a) an extension of the maturity (or mandatory redemption date) of the principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of or redemption premium or rate of interest on any Bond issued hereunder, or (c) the creation of any lien on the Trust Estate or any part thereof, except as hereinbefore expressly permitted, or (d) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Indenture, or (f) depriving the Holder of any Bond then Outstanding of the lien hereby created on the Trust Estate. Nothing herein contained, however, shall be construed as making necessary the approval of Bondholders of the execution of any Supplemental Indenture as provided in Section 1001 of this Article X.

If, at any time the City shall request the Trustee to enter into any Supplemental Indenture for any of the purposes of this Section, the Trustee shall, at the expense of the City, cause notice of the proposed execution of such Supplemental Indenture to be mailed by first class mail to each registered owner of the Bonds. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal office of the

Trustee for inspection by Bondholders. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail such notice, and any such failure shall not affect the validity of such Supplemental Indenture when consented to and approved as provided in this Section 1002. If the Holders of not less than 2/3 in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1003. Effect of Supplemental Indentures. Upon the execution of any Supplemental Indenture entered into pursuant to Section 1001 or 1002 hereof, this Indenture shall be deemed to be modified and amended in accordance therewith.

ARTICLE XI

MISCELLANEOUS

Section 1101. Consents, etc. of Bondholders. Any request, direction, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such writing acknowledged before such officer the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers, and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee, as Bond registrar.

Section 1102. Notices. Except as otherwise provided in this Indenture, all notices, certificates or other communications shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, to the City or the Trustee. Notices, certificates or other communications shall be sent to the following addresses:

City: City of Fayetteville
City Administration Building
113 West Mountain
Fayetteville, Arkansas 72701
Attention: Mayor

Trustee: _____
_____, Arkansas _____
Attention: _____

Either of the foregoing may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 1103. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds issued hereunder, is intended or shall be construed to give to any person or company other than the parties hereto, and the Holders of the Bonds secured by this Indenture any legal or equitable rights, remedy, or claim under or in respect to this Indenture or any covenants, conditions, and provisions hereof being intended to be and being for the sole exclusive benefit of the parties hereto and the Holders of the Bonds hereby secured as herein provided.

Section 1104. Severability. If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Indenture contained shall not affect the remaining portions of this Indenture or any part thereof.

Section 1105. Applicable Provisions of Law. This Indenture shall be considered to have been executed in the State of Arkansas and it is the intention of the parties that the substantive law of the State of Arkansas govern as to all questions of interpretation, validity and effect.

Section 1106. Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1107. Successors and Assigns. All the covenants, stipulations, provisions, agreements, rights, remedies and claims of the parties hereto in this Indenture contained shall bind and inure to the benefit of their successors and assigns.

Section 1108. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

Section 1109. Photocopies and Reproductions. A photocopy or other reproduction of this Indenture may be filed as a financing statement pursuant to the Uniform Commercial Code, although the signatures of the City and the Trustee in such reproduction are not original manual signatures.

Section 1110. Bonds Owned by the City. In determining whether Bondholders of the requisite aggregate principal amount of the Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the City shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, and, to evidence its acceptance of the trust hereby created, the Trustee has caused these presents to be signed in its behalf by its duly authorized officers and its corporate seal to be hereto affixed.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

City Clerk

(SEAL)

_____,
as Trustee

By: _____
Title:

ATTEST:

By: _____
Title:

(SEAL)

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

Before me a Notary Public, duly commissioned, qualified and acting within and for the State and county aforesaid, appeared in person the within named Dan Coody and Sondra Smith, Mayor and City Clerk, respectively, of the City of Fayetteville, Arkansas, to me personally known, who stated that they were duly authorized in their respective capacities to execute the foregoing instrument for and in the name of the City, and further stated and acknowledged that they had signed, executed and delivered the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2006.

Notary Public

My Commission expires:

(SEAL)

[ACKNOWLEDGEMENT TO TRUST INDENTURE]

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF _____)

Before me a Notary Public, duly commissioned, qualified and acting within and for the State and county aforesaid, appeared in person the within named _____ and _____, the _____ and the _____, respectively, of _____, to me personally known, who stated that they were duly authorized in their respective capacities to execute the foregoing instrument for and in the name of the _____, and further stated and acknowledged that they had signed, executed and delivered the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ____ day of _____, 2006.

Notary Public

My Commission expires:

(SEAL)

[ACKNOWLEDGEMENT TO TRUST INDENTURE]

EXHIBIT A TO TRUST INDENTURE

Form of Bond

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by the authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

REGISTERED

No. R06A-_____

REGISTERED

\$_____

**UNITED STATES OF AMERICA
STATE OF ARKANSAS
CITY OF FAYETTEVILLE, ARKANSAS
GENERAL OBLIGATION BOND
SERIES 2006A**

Interest Rate: _____%

Maturity Date: [July 1], 20__

Date of Bond: [July 15], 2006

CUSIP: _____

Registered Owner: CEDE & CO.

Principal Amount: _____ DOLLARS

KNOW ALL MEN BY THESE PRESENTS:

That the City of Fayetteville, Arkansas, a municipality and political subdivision organized and existing by virtue of the laws of the State of Arkansas (the "City"), for value received, promises to pay to the Registered Owner shown above, or registered assigns, on the Maturity Date shown above, but solely from the source and in the manner hereinafter set forth, the Principal Amount shown above, and in like manner to pay interest on said amount from the date hereof until payment of such Principal Amount has been made or duly provided for, at the Interest Rate per annum shown above, such interest to be payable semiannually on [January 1 and July 1] of each year, commencing [January 1, 2007], except as the provisions hereinafter set forth with respect to redemption of this bond prior to maturity may become applicable hereto. The principal of and premium, if any, on this bond are payable in lawful money of the United States of America upon the presentation and surrender hereof at the principal corporate trust office of _____, _____, Arkansas, or its successor or successors, as trustee (the "Trustee"). So long as Cede & Co. or another nominee of DTC is the registered owner of this bond, payment of interest hereon shall be made by wire transfer of immediately available funds by the Trustee to the Registered Owner as of the fifteenth day of the calendar month preceding the calendar month in which such interest payment date shall fall (the "Record

Date"). At any time thereafter, payment of interest hereon shall be made by check or draft of the Trustee to the Registered Owner as of the applicable Record Date, at the owner's address as it appears on the bond registration books of the City kept by the Trustee.

This bond, designated "General Obligation Bond, Series 2006A", is one of a series of bonds aggregating [Three Million One Hundred Sixty-Five Thousand Dollars (\$3,165,000)] (the "Bonds"). The Bonds are being issued for the purpose of (i) financing the costs of acquiring, constructing and equipping certain fire station facilities (the "Project"), and (ii) paying the costs of issuance of the Bonds.

The Bonds are issued under and are secured by and entitled to the protection of a Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City and the Trustee, which Indenture is available for inspection at the principal corporate trust office of the Trustee. Reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the City, the Trustee and the owners of the Bonds, and the terms upon which the Bonds are issued and secured.

The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Amendment No. 78 to the Constitution of Arkansas, as implemented by the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.* (as from time to time amended, the "Act"), and Ordinance No. _____ of the City adopted [June ____], 2006, which ordinance also authorized the execution and delivery of the Indenture.

The Bonds are general obligations of the City payable as to principal, premium, if any, and interest out of the Trust Estate pledged by the Indenture, which includes the general revenues of the City. The Trust Estate is pledged, appropriated and assigned to the payment of the principal of, premium, if any, and interest on the Bonds, all in accordance with their terms and the provisions of Amendment 78, the Act and the Indenture. Pursuant to Amendment 78 and the Act, the total annual principal and interest requirements on the Bonds in each fiscal year of the City shall be charged against and paid from the general revenues of the City for such fiscal year, including road fund revenues. The Bonds shall constitute an indebtedness for which the full faith and credit of the City are pledged within the meaning of State constitutional and statutory limitations. The Indenture provides that, subject only to the limitations of Amendment 78 and the Act, the City may from time to time issue or incur additional bonds, notes or other evidence of indebtedness secured by the general revenues of the City

The holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon. Modifications or alterations of the Indenture, or

of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds shall be redeemed prior to maturity, in whole or in part, on any interest payment date, in inverse order of maturity and by lot in such manner as the Trustee shall determine within a maturity, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption, from Project Fund moneys in excess of the amount needed to complete the Project.

[OPTIONAL REDEMPTION??]

Notwithstanding the foregoing, so long as DTC or its nominee is the sole registered owner of the Bonds, the particular Bonds or portions thereof to be redeemed in part within a maturity shall be selected by lot by DTC in such manner as DTC shall determine. In selecting Bonds for redemption prior to maturity, in the case any outstanding Bond is in a denomination greater than \$5,000, each \$5,000 of face value of such Bond shall be treated as a separate Bond of the denomination of \$5,000.

In the event any of the Bonds or portions thereof (which shall be \$5,000 or any integral multiple thereof) are called for redemption, notice thereof shall be given by the Trustee by first class mail to the registered owner of each such Bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure or defect has occurred. Each notice shall identify the Bonds or portions thereof being called, and the date on which they shall be presented for payment. After the date specified in such call notice, the Bond or Bonds so called for redemption will cease to bear interest provided funds sufficient for their redemption have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

This Bond may be transferred on the books of registration kept by the Trustee by the registered owner or by his duly authorized attorney upon surrender hereof, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney.

The Bonds are issuable as registered bonds without coupons in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Bonds or the Indenture against any past, present or future alderman, officer or employee of the City, or any successor, as such, either directly or through the City or any successor of the City, under any rule of law or equity, statute or constitution or by the

enforcement of any assessment or penalty or otherwise, and all such liability of any such alderman, officer or employee as such is hereby expressly waived and released as a condition of and consideration for the issuance of any of the Bonds.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the Bonds, together with all obligations of the City, does not exceed any constitutional or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Fayetteville, Arkansas has caused this Bond to be executed by its Mayor and City Clerk, thereunto duly authorized (by their manual or facsimile signatures), and its corporate seal to be affixed or imprinted hereon, all as of the date hereof shown above.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

(S E A L)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the issue described in and issued under the provisions of the within mentioned Indenture.

Attached hereto is the complete text of the opinion of Kutak Rock LLP, a signed original of which is on file with the undersigned, delivered and dated the date of the original delivery of and payment for the Bonds.

as Trustee

By: _____
Authorized Signature

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, _____, hereby sells, assigns, and transfers unto _____, the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ as attorney to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATE: _____, 20__.

Transferor

GUARANTEED BY:

NOTICE: Signature(s) must be guaranteed by an institution satisfactory to the Trustee or other transfer agent.

EXHIBIT B TO TRUST INDENTURE

REQUISITION

City of Fayetteville, Arkansas
Series 2006A General Obligation Bonds

Date: _____

Requisition No.: _____

TO: _____, as Trustee

Pursuant to the provisions of Section 502 of the Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City of Fayetteville, Arkansas (the "Issuer") and you, as trustee, you are authorized to make the following described payment directly to the Payee named below from the Project Fund:

Name and Address of Payee:

Amount of Payment:

\$ _____

General Classification of
the Expenditures:

The undersigned hereby certifies that he is authorized to deliver this Requisition on behalf of the Issuer.

The amount requested hereunder has not been the basis for any previous Requisition by the Issuer and is justly due and owing to the person(s) named herein as a proper payment or reimbursement of a Project Cost.

No Event of Default exists under the Indenture and, to the knowledge of the undersigned, no event has occurred and continues which with notice or lapse of time or both would constitute an Event of Default under the Indenture.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Authorized Representative

CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement dated as of July __, 2006 (this "Agreement"), is executed and delivered by the City of Fayetteville, Arkansas (the "City") and _____, as trustee (the "Trustee"), in connection with the issuance of the City's [\$3,165,000] General Obligations Bonds, Series 2006A (the "Bonds"). The Bonds are being issued pursuant to the terms and provisions of Ordinance No. _____ duly adopted by the City Council of the City on June __, 2006 (the "Authorizing Ordinance"), and a Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City and the Trustee. In connection with the issuance of the Bonds, the City and the Trustee agree as follows:

Section 1. Purpose of this Agreement. This Agreement is being executed and delivered by the City and the Trustee for the benefit of the Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with, and constitutes the written undertaking for the benefit of the Beneficial Owners of the Bonds required by, Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12 under the Securities Act of 1934, as amended (17 C.F.R. Section 240.15c2-12) (the "Rule"). The City hereby represents that it has not failed to comply with any previous undertaking pursuant to the Rule.

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Financial Information" shall mean the annual financial information provided by the City pursuant to, and as described in, Sections 3 and 4 of this Agreement.

"Arkansas State Repository" shall mean any public or private repository or entity as may be designated by the State of Arkansas as a state repository for the purpose of the Rule and recognized as such by the SEC. As of the date of this Agreement, there is no Arkansas State Repository.

"Beneficial Owner" shall mean any person which has or shares the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including persons holding Bonds through nominees, depositories or other intermediaries.

"Disclosure Representative" shall mean the City's [Finance Director] or his or her designee, or such other officer or employee as the City shall designate in writing to the Trustee from time to time.

"Fiscal Year" shall mean the 12-month period used, at any time, by the City for accounting purposes, which may be the calendar year.

"MSRB" shall mean the Municipal Securities Rulemaking Board established in accordance with the provisions of Section 15B(b)(1) of the 1934 Act.

"National Repository" shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The National Repositories currently approved by the Securities and Exchange Commission are set forth in Exhibit B hereto.

"Participating Underwriter" shall mean Crews & Associates, Inc.

"Repository" shall mean each National Repository and the Arkansas State Repository, if any.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934, as the same may be amended from time to time ("1934 Act").

"Specified Events" shall mean any of the events with respect to the Bonds listed in Section 5(a) of this Agreement.

Section 3. Provision of Annual Financial Information.

(a) The City shall, not later than August 1 of each year, commencing August 1, 2007, provide to each Repository and to the Trustee its Annual Financial Information which is consistent with the requirements of Section 4 of this Agreement. The City's Annual Financial Information may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4(b) hereof; provided that the audited financial statements of the City may be submitted separately from the balance of its Annual Financial Information and later than the date required above for the filing of the Annual Financial Information if they are not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a material Specified Event under Section 5 of this Agreement.

(b) If, on the date specified in subsection (a) for providing the Annual Financial Information to Repositories, the Trustee has not received a copy of the Annual Financial Information, the Trustee shall contact the Disclosure Representative to determine if the City is in compliance with subsection (a).

(c) If the Trustee is unable to verify that the Annual Financial Information has been provided to the Repositories by the date required in subsection (a), the Trustee shall file a notice with the Repositories and the MSRB in substantially the form set forth in Exhibit A and as required by the Rule.

(d) The City shall:

(i) determine each year prior to the date for providing the Annual Financial Information the name and address of each Repository; and

(ii) file a report with the Trustee certifying that the Annual Financial Information has been provided pursuant to this Agreement, stating the date it was provided, and listing all of the Repositories to which it was provided.

Section 4. Content of Annual Financial Information.

(a) The City's Annual Financial Information shall contain or incorporate by reference the following:

(i) [TO BE DETERMINED];

(ii) The City's audited financial statements for the prior Fiscal Year, prepared in accordance with accounting principles generally accepted in the United States ("GAAP") as such principles are modified by the governmental accounting standards promulgated by the Government Accounting Standards Board ("GASB") and by mandated principles of the State of Arkansas, if any, as in effect from time to time, which financial statements have been audited by such auditor as shall then be required or permitted by the laws of the State of Arkansas. If the City's audited financial statements are not available by the time its Annual Financial Information is required to be filed pursuant to Section 3(a) hereof, the Annual Financial Information shall contain the unaudited financial statements of the City, and the audited financial statements shall be filed in the same manner as the Annual Financial Information when they become available.

(b) Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues of the City or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document has been incorporated by reference in a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City must clearly identify each such other document incorporated by reference.

Section 5. Reporting of Specified Events.

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of any credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;

- (7) Modifications to rights of Bondowners;
- (8) Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds; and
- (11) Rating changes.

(b) The Trustee, upon obtaining actual knowledge of the occurrence of any of the Specified Events, shall promptly inform the Disclosure Representative of any Specified Event that has occurred, and shall request that the City promptly notify the Trustee in writing whether to report the event pursuant to subsection (e).

(c) If the City determines that the occurrence of a Specified Event is material to a Beneficial Owner of the Bonds, the Disclosure Representative shall promptly notify the Trustee in writing. Such notice shall instruct the Trustee to report the occurrence pursuant to subsection (e) below.

(d) If the City determines that the occurrence of a Specified Event is not material, the Disclosure Representative shall so notify the Trustee in writing and instruct the Trustee not to report the occurrence pursuant to subsection (e) below.

(e) If the Trustee has been instructed by the Disclosure Representative to report the occurrence of a Specified Event, the Trustee shall file a notice of such occurrence with each National Repository, or with the MSRB and the Arkansas State Repository. The Trustee shall not be obligated to report the occurrence of a Specified Event if there is no instruction to do so from the Disclosure Representative. Notwithstanding the foregoing:

(i) notice of the occurrence of a Specified Event described in subsections (a)(1), (4) or (5) shall be given by the Trustee unless the Disclosure Representative gives the Trustee affirmative instructions not to disclose such occurrence; and

(ii) notice of the Specified Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Beneficial Owners of affected Bonds pursuant to the Indenture.

Section 6. Termination of Reporting Obligation. The City's obligations under this Agreement shall terminate if the City is no longer an "obligated person" within the meaning of the Rule. The City's obligations under this Agreement shall terminate upon the maturity, defeasance, prior redemption or payment in full of all of the Bonds.

Section 7. Amendment; Waiver. Notwithstanding any other provision of this Agreement, the City and the Trustee may amend this Agreement (and the Trustee shall consent in its discretion, such consent not to be unreasonably withheld, to any amendment so requested by the City), and any provision of this Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel, reasonably acceptable to each of the City and the Trustee, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule taking into account any subsequent change in or official interpretation of the Rule.

Section 8. Additional Information. Nothing in this Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information or notice of occurrence of a Specified Event, in addition to that which is required by this Agreement. If the City chooses to include any information in any Annual Financial Information or notice of occurrence of a Specified Event in addition to that which is specifically required by this Agreement, the City shall have no obligation under this Agreement to update such information or include it in any future Annual Financial Information or notice of occurrence of a Specified Event.

Section 9. Default.

(a) In the event of a failure of the City to provide to the Repositories the Annual Financial Information as undertaken by the City in this Agreement, the Beneficial Owner of any Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations to provide Annual Financial Information or notices under this Agreement.

(b) Notwithstanding the foregoing, no Beneficial Owner of the Bonds shall have the right to challenge the content or adequacy of the information provided pursuant to Sections 3, 4 or 5 of this Agreement by mandamus, specific performance or other equitable proceedings unless the City shall have been given ninety (90) days' written notice by a Beneficial Owner of the Bonds to remedy the alleged inadequacy of the information provided and unless Beneficial Owners of Bonds representing at least 25% aggregate principal amount of outstanding Bonds shall join in such proceedings.

(c) A default under this Agreement shall not be deemed an Event of Default under the Trust Indenture, and the sole remedy under this Agreement in the event of any failure of the City or the Trustee to comply with this Agreement shall be an action to compel performance.

Section 10. Duties, Immunities and Liabilities of Trustee. Article IX of the Indenture is hereby made applicable to this Agreement as if this Agreement were (solely for this purpose) contained in the Indenture. The Trustee shall have only such duties as are specifically set forth in this Agreement, and the City agrees to indemnify and save the Trustee, its officers, directors, employees and agents, harmless against any liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses

(including attorneys' fees and expenses) of defending against any claim of liability, but excluding liabilities due to its own negligence or willful misconduct.

Section 11. Beneficiaries. This Agreement shall inure solely to the benefit of the City, the Trustee and the Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 12. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Title: Mayor

as Trustee

By: _____
Title: _____

EXHIBIT A

**NOTICE TO REPOSITORIES REGARDING
FINANCIAL INFORMATION**

NAME OF ISSUER: City of Fayetteville, Arkansas
NAME OF BOND ISSUE: [\$3,165,000] General Obligation Bonds, Series 2006A
DATE OF ISSUANCE: [July __, 2006]

NOTICE IS HEREBY GIVEN that the City of Fayetteville, Arkansas (the "City") has not yet provided Annual Financial Information with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Agreement dated as of [July __, 2006], between the City and _____, as trustee. [The City anticipates that the Annual Financial Information will be filed by _____.]

Dated: _____

as Trustee

cc: City of Fayetteville
Crews & Associates, Inc.

EXHIBIT B

List of Nationally Recognized Municipal Securities Information Repositories at the time of execution and delivery of the Continuing Disclosure Agreement

This list may change from time to time. The Agreement requires that information and notices be provided to each Repository. This list should be checked for changes each time information or notice is to be provided.

A current list may be obtained from the Securities and Exchange Commission over the Internet at <http://www.sec.gov/info/municipal/nrmsir.htm>.

Bloomberg Municipal Repository

100 Business Park Drive
Skillman, New Jersey 08558
Phone: (609) 279-3225
Fax: (609) 279-5962
<http://www.bloomberg.com/markets/rates/municontacts.html>
E-mail: Munis@Bloomberg.com

DPC Data Inc.

One Executive Drive
Fort Lee, New Jersey 07024
Phone: (201) 346-0701
Fax: (201) 947-0107
<http://www.dpcdata.com>
E-mail: nrmsir@dpcdata.com

FT Interactive Data

Attn: NRMSIR
100 Williams Street, 15th Floor
New York, New York 10038
Phone: (212) 771-6999; (800) 689-8466
Fax: (212) 771-7390
<http://www.ftid.com>
Email: NRMSIR@interactivedata.com

Standard & Poor's Securities Evaluations, Inc.

55 Water Street
45th Floor
New York, New York 10041
Phone: (212) 438-4595
Fax: (212) 438-3975
www.jjkenny/jjkenny/pserdescripdatarep.html
Email: nrmsir_repository@sandp.com

BOND PURCHASE AGREEMENT

June __, 2006

City of Fayetteville
City Administration Building
113 West Mountain
Fayetteville, Arkansas 72701

[\$3,165,000]
City of Fayetteville, Arkansas
General Obligation Bonds,
Series 2006A

Ladies and Gentlemen:

On the basis of the representations, warranties and agreements and upon the terms and conditions contained herein, the undersigned, Crews & Associates, Inc. (the "Underwriter"), hereby offers to enter into this Bond Purchase Agreement (this "Bond Purchase Agreement") with the City of Fayetteville, Arkansas (the "City") which, upon your acceptance of this offer, will be binding upon you and upon the Underwriter. Terms not otherwise defined herein shall have the same meanings as set forth in the Indenture defined and described below.

This offer is made subject to your acceptance of this Bond Purchase Agreement on or before midnight on the date set forth above.

1. **General.** Upon the terms and conditions and in reliance upon the respective representations, warranties and covenants herein, the Underwriter hereby agrees to purchase from the City, and the City hereby agrees to sell to the Underwriter, all (but not less than all) of [\$3,165,000] City of Fayetteville, Arkansas General Obligation Bonds, Series 2006A (the "Bonds"), at the purchase price (the "Purchase Price") of \$_____ (equal to the par amount of the Bonds [plus][less] a net reoffering [premium][discount] of \$_____ and less underwriter's discount of \$_____) plus accrued interest, if any, from [July 15], 2006, to the Closing Date (hereinafter defined).

The Bonds shall be issued by the City pursuant to the provisions of the Constitution and laws of the State of Arkansas, including, particularly, Amendment 78 to the Constitution and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.* (as from time to time amended, the "Act").

The Bonds will constitute general obligations of the City, and the total annual debt services payments thereon shall be charged against and paid from the general revenues of the City. The Bonds shall be issued and secured under the provisions of a Trust Indenture dated as

of [July 15], 2006 (the "Indenture"), by and between the City and _____, Arkansas, as trustee (the "Trustee").

The Bonds shall be issued and secured pursuant to Ordinance No. _____ of the City which was adopted by the City Council on June __, 2006 (the "Authorizing Ordinance"), and pursuant to the Indenture. The Bonds shall have the maturities and interest rates as set forth in Exhibit A hereto. [The Bonds shall be subject to redemption as set forth in the Indenture and in the Official Statement (hereinafter defined).]

The proceeds of the Bonds will be utilized to finance the costs of the Project (as defined in the Indenture) and to pay the costs of issuance of the Bonds.

The City will undertake, pursuant to a Continuing Disclosure Agreement to be dated as of the date of delivery of the Bonds (the "Continuing Disclosure Agreement"), to provide certain annual financial and operating information and notices of the occurrence of certain events, if material, as required by Section (b)(5)(i) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"). A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement (each hereinafter defined). The City is not in default with respect to any of its obligations under previous undertakings pursuant to the Rule.

In order to ensure compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), the City will enter into a Tax Regulatory Agreement to be dated as of the date of delivery of the Bonds (the "Tax Regulatory Agreement").

2. **Bona Fide Public Offering.** The Underwriter agrees to make a bona fide public offering of all of the Bonds at the offering prices set forth on the cover of the final Official Statement described below.

3. **Delivery of Official Statement.** (a) The City has previously provided the Underwriter with copies of its Preliminary Official Statement, including the cover page and the appendices thereto, dated June __, 2006, relating to the Bonds (the "Preliminary Official Statement"). As of its date, the Preliminary Official Statement is "deemed final" by the City for purposes of SEC Rule 15c2-12(b)(1) (the "Rule"). The Preliminary Official Statement, as amended to conform to the terms of this Bond Purchase Agreement, including Exhibit A hereto, and with such other changes and amendments as are mutually agreed to by the City and the Underwriter, is herein referred to as the "Official Statement."

(b) The City agrees to deliver to the Underwriter, at such address as the Underwriter shall specify, as many copies of the final Official Statement dated June __, 2006, relating to the Bonds as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule (as defined above) and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board. The City agrees to deliver such final Official Statement within seven (7) business days after the execution hereof.

(c) The City hereby authorizes and approves the Preliminary Official Statement and the final Official Statement, consents to their distribution and use by the Underwriter and authorizes the execution of the final Official Statement by a duly authorized officer of the City. The City ratifies and confirms the use of the Preliminary Official Statement by the Underwriter prior to the date hereof in connection with the public offering of the Bonds.

(d) The Underwriter shall give notice to the City on the date after which no participating underwriter, as such term is defined in the Rule, remains obligated to deliver final Official Statements pursuant to paragraph (b)(4) of the Rule.

4. **City's Representation and Warranties.** The City represents and warrants to the Underwriter that:

(a) The City is a duly organized and existing political subdivision under the Constitution and laws of the State of Arkansas (the "State"). The City is authorized by the provisions of Amendment 78 and the Act to issue the Bonds for the purpose of financing the Project.

(b) The City has the full legal right, power and authority (i) to adopt the Authorizing Ordinance authorizing the issuance of and sale of the Bonds, (ii) to enter into this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, (iii) to issue, sell and deliver the Bonds to the Underwriter as provided herein, and (iv) to carry out and consummate all other transactions contemplated by each of the aforesaid documents, and the City has complied with all provisions of applicable law, including Amendment 78 and the Act, in all matters relating to such transactions.

(c) The City has duly authorized (i) the execution and delivery of the Bonds and the execution, delivery and due performance of this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, (ii) the distribution and use of the Preliminary Official Statement and the execution, delivery and distribution of the final Official Statement, and (iii) the taking of any and all such actions as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated by such instruments. All consents or approvals necessary to be obtained by the City in connection with the foregoing have been received, and the consents or approvals so received remain still in full force and effect.

(d) The Authorizing Ordinance has been duly adopted by City Council of the City, is in full force and effect and constitutes the legal, valid and binding act of the City; and this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, when executed and delivered, will constitute legal, valid and binding obligations of the City, and this Bond Purchase Agreement, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement are enforceable against the City in accordance with their respective terms, except as

enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally.

(e) When delivered to or at the direction of the Underwriter, the Bonds will have been duly authorized, executed, authenticated, issued and delivered and will constitute legal, valid and binding obligations of the City in conformity with the laws of the State of Arkansas, including Amendment 78 and the Act, and will be entitled to the benefit and security of the Authorizing Ordinance and the Indenture.

(f) The City has duly approved and authorized the distribution and use of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement.

(g) The information contained in the Preliminary Official Statement is, and as of the Closing Date such information in the final Official Statement will be, true and correct in all material respects, and the Preliminary Official Statement does not and the final Official Statement will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) If, at any time prior to the earlier of (i) receipt of notice from the Underwriter pursuant to Section 3(d) hereof that Official Statements are no longer required to be delivered under the Rule or (ii) 25 days after the Closing Date, any event occurs as a result of which the Official Statement, as then amended or supplemented, might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the City shall promptly notify the Underwriter in writing of such event. Any information supplied by the City for inclusion in any amendments or supplements to the Official Statement will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Upon the request of the Underwriter therefor, the City shall prepare and deliver to the Underwriter, at the City's expense, as many copies of an amendment or supplement to the Official Statement which will correct any untrue statement or omission therein as the Underwriter may reasonably request.

(i) Neither the adoption of the Authorizing Ordinance, the execution and delivery of this Bond Purchase Agreement, the Bonds, the Indenture, the Continuing Disclosure Agreement or the Tax Regulatory Agreement, nor the consummation of the transactions contemplated herein or therein or the compliance with the provisions hereof or thereof will conflict with, or constitute on the part of the City a violation of, or a breach of or default under, (i) any statute, indenture, mortgage, commitment, note or other agreement or instrument to which the City is a party or by which it is bound, (ii) any provision of the Constitution of the State of Arkansas, or (iii) any existing law, rule, regulation, ordinance, judgment, order or decree to which the City (or the members of its City Council or any of its officers in their respective capacities as such) is subject. All consents, approvals, authorizations and orders of governmental or regulatory authorities,

if any, which are required for the City's execution and delivery of, consummation of the transactions contemplated by, and compliance with the provisions of this Bond Purchase Agreement, the Authorizing Ordinance, the Bonds, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement have been obtained.

(j) Except as is specifically disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the best knowledge of the City, threatened, which in any way questions the powers of the City referred to in subparagraph 4(b) above, or the validity of any proceeding taken by the City in connection with the issuance of the Bonds, or wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated by this Bond Purchase Agreement, or of any other document or instrument required or contemplated by the Bond financing, or which, in any way, could adversely affect the validity or enforceability of the Authorizing Ordinance, the Bonds, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement or this Bond Purchase Agreement or, to the knowledge of the City, which in any way questions the exclusion from gross income of the recipients thereof of the interest on the Bonds for federal income tax purposes or in any other way questions the status of the Bonds under federal or State of Arkansas tax laws or regulations.

(k) Any certificate signed by any official of the City and delivered to the Underwriter shall be deemed a representation and warranty by the City to the Underwriter as to the truth of the statements therein contained.

(l) The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

(m) The City will not knowingly take or omit to take any action, which action or omission will in any way cause the proceeds from the sale of the Bonds to be applied in a manner other than as provided in the Indenture, or which would cause the interest on the Bonds to be includable in gross income for federal income tax purposes.

5. **City's Covenants.** The City covenants with the Underwriter as follows:

(a) The City will cooperate with the Underwriter in qualifying the Bonds for offer and sale under the securities or Blue Sky laws of such jurisdictions of the United States as the Underwriter may request; provided, however, that the City shall not be required to consent to suit or to service of process in any jurisdiction. The City consents to the use by the Underwriter in the course of its compliance with the securities or Blue Sky laws of the various jurisdictions of the documents relating to the Bonds, subject to the right of the City to withdraw such consent for cause by written notice to the Underwriter.

(b) Prior to the earlier of (i) receipt of notice from the Underwriter pursuant to Section 3(d) hereof that final Official Statements are no longer required under the Rule or

(ii) 25 days after the Closing Date, the City shall provide the Underwriter with such information regarding the City and the current financial condition and ongoing operations of the City, all as the Underwriter may reasonably request.

6. **Closing.** At 10:00 a.m. Fayetteville, Arkansas time on July __, 2006, or at such other time and/or date as shall have been mutually agreed upon by the City and the Underwriter (the "Closing Date"), the City will deliver the Bonds, or cause the Bonds to be delivered, to or at the direction of the Underwriter, said Bonds to be in definitive form duly executed by the City and authenticated by _____, _____, Arkansas, as trustee (the "Trustee"), together with the other documents hereinafter mentioned; and the Underwriter will accept such delivery and pay the Purchase Price of the Bonds by making a wire transfer of federal funds payable to the order of the Trustee for the account of the City.

The Bonds shall be delivered to The Depository Trust Company in New York, New York, and the activities relating to the final execution and delivery of the Authorizing Ordinance, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement and the other documents related to the Bonds and the payment for the Bonds and the delivery of the certificates, opinions and other instruments as described in Section 8 of this Bond Purchase Agreement shall occur in the offices of Kutak Rock LLP, 425 West Capitol Avenue, Suite 1100, Little Rock, Arkansas ("Bond Counsel"), or at such other place as shall have been mutually agreed upon between the City and the Underwriter. The payment for the Bonds and simultaneous delivery of the Bonds to or at the direction of the Underwriter is herein referred to as the "Closing."

7. **Underwriter's Right to Cancel.** The Underwriter shall have the right to cancel its obligation to purchase the Bonds hereunder by notifying the City in writing or by telegram of its election to do so between the date hereof and the Closing, if at any time hereafter and prior to the Closing:

(i) the House of Representatives or the Senate of the Congress of the United States, or a committee of either, shall have pending before it, or shall have passed or recommended favorably, legislation introduced previous to the date hereof, which legislation, if enacted in its form as introduced or as amended, would have the purpose or effect of imposing federal income taxation upon revenues or other income of the general character to be derived by the City or by any similar body under the Authorizing Ordinance or the Indenture or similar documents or upon interest received on obligations of the general character of the Bonds or the Bonds, or of causing interest on obligations of the general character of the Bonds, or the Bonds, to be includable in gross income for purposes of federal income taxation, and such legislation, in the Underwriter's opinion, materially adversely affects the market price of the Bonds; or

(ii) a tentative decision with respect to legislation shall be reached by a committee of the House of Representatives or the Senate of the Congress of the United States, or legislation shall be favorably reported or rereported by such a committee or be introduced, by amendment or otherwise, in or be passed by the House of Representatives or the Senate, or recommended to the Congress of the United States for passage by the President of the United States, or be enacted or a decision by a federal court of the

United States or the United States Tax Court shall have been rendered, or a ruling, release, order, regulation or official statement by or on behalf of the United States Treasury Department, the Internal Revenue Service or other governmental agency shall have been made or proposed to be made having the purpose or effect, or any other action or event shall have occurred which has the purpose or effect, directly or indirectly, of adversely affecting the federal income tax consequences of owning the Bonds or of any of the transactions contemplated in connection herewith, including causing interest on the Bonds to be included in gross income for purposes of federal income taxation, or imposing federal income taxation upon revenues or other income of the general character to be derived by the City or by any similar body under the Authorizing Ordinance or the Indenture or similar documents or upon interest received on obligations of the general character of the Bonds, or the Bonds which, in the opinion of the Underwriter, materially adversely affects the market price of or market for the Bonds; or

(iii) legislation shall have been enacted, or actively considered for enactment with an effective date prior to the Closing, or a decision by a court of the United States shall have been rendered, the effect of which is that the Bonds, including any underlying obligations, or the Indenture, as the case may be, is not exempt from the registration, qualification or other requirements of the Securities Exchange Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect; or

(iv) a stop order, ruling, regulation or official statement by the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall have been issued or made or any other event occurs, the effect of which is that the issuance, offering or sale of the Bonds, including any underlying obligations, or the execution and delivery of the Indenture as contemplated hereby or by the Official Statement, is or would be in violation of any provision of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect; or

(v) any event shall have occurred or any information shall have become known to the Underwriter which causes the Underwriter to reasonably believe that the Official Statement as then amended or supplemented includes an untrue statement of a material fact, or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; or

(vi) there shall have occurred any outbreak of hostilities or any national or international calamity or crisis, including a financial crisis, the effect of which on the financial markets of the United States is such as, in the reasonable judgment of the Underwriter, would materially adversely affect the market for or market price of the Bonds; or

(vii) there shall be in force a general suspension of trading on the New York Stock Exchange, the effect of which on the financial markets of the United States is such as,

in the reasonable judgment of the Underwriter, would materially adversely affect the market for or market price of the Bonds; or

(viii) a general banking moratorium shall have been declared by federal, New York or State authorities; or

(ix) any proceeding shall be pending or threatened by the Securities and Exchange Commission against the City; or

(x) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; or

(xi) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of the Underwriter.

8. **Conditions to Underwriter's Obligations.** The obligation of the Underwriter to purchase the Bonds shall be subject (a) to the performance by the City of its obligations to be performed hereunder at and prior to the Closing, (b) to the accuracy of the representations and warranties of the City herein as of the date hereof and as of the time of the Closing, and (c) to the following conditions, including the delivery by the City of such documents as are enumerated herein in form and substance satisfactory to the Underwriter:

(a) The Bonds shall have been duly authorized, executed and delivered in the forms approved by the City in the Indenture with only such changes therein as the Underwriter and the City shall mutually agree upon, which shall in all instances be as described in the final Official Statement;

(b) At the time of Closing, (i) the Official Statement, this Bond Purchase Agreement, the Indenture, the Authorizing Ordinance, the Continuing Disclosure Agreement and the Tax Regulatory Agreement shall be in full force and effect and shall not have been amended, modified or supplemented from the date hereof, except as may have been agreed to in writing by the Underwriter, (ii) the proceeds of the sale of the Bonds shall be deposited and applied as described in the Indenture, (iii) no default or event of default under the Indenture shall have occurred and be continuing, and (iv) no material adverse change affecting the City shall have occurred, nor shall any development involving a prospective and material adverse change in, or affecting the business, financial condition, results of operations, prospects or properties of the City have occurred;

(c) Receipt of fully executed originals of the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement at or prior to the Closing;

(d) At or prior to the Closing, the Underwriter shall receive the following documents in such number of counterparts as shall be mutually agreeable to the Underwriter and Bond Counsel:

(1) A final approving opinion of Bond Counsel, dated the Closing Date, in substantially the form set forth in Exhibit B hereto;

(2) A supplemental opinion of Bond Counsel, addressed to the City, the Trustee and the Underwriter and dated the Closing Date, in substantially the form set forth in Exhibit C hereto;

(3) The Official Statement executed by a duly authorized officer of the City;

(4) Certified copies of the Authorizing Ordinance and all other ordinances and resolutions of the City relating to the Bonds;

(5) Photocopies of the Bonds as executed and delivered;

(6) A certificate, in form and substance satisfactory to the Underwriter, of the Mayor of the City, dated as of the Closing Date, to the effect that: (i) each of the City's representations, warranties and covenants contained herein are true and correct as of the Closing Date; (ii) the City has duly adopted the Authorizing Ordinance by all action necessary under the Act and the laws and Constitution of the State of Arkansas, and has duly authorized the execution, delivery and due performance of the Bonds, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement, the Official Statement and this Bond Purchase Agreement; (iii) no litigation is pending, or to his knowledge after due investigation and inquiry, threatened, to restrain or enjoin the issuance or sale of the Bonds or in any way affecting any authority for or the validity of the Bonds, the Official Statement, the Authorizing Ordinance, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement or this Bond Purchase Agreement; (iv) the Bonds, the Indenture, this Bond Purchase Agreement, the Continuing Disclosure Agreement and the Tax Regulatory Agreement, as executed and delivered by the City, are in the form or in substantially the form approved for such execution by appropriate proceedings of the City; (v) since December 31, 2005, there has not been any material adverse change in the financial condition or results of operations of the City whether or not arising in the ordinary course of business, other than as set forth in the Official Statement; (vi) the Authorizing Ordinance has not been amended, modified or repealed as of the Closing Date, and the Authorizing Ordinance remains in full force and effect; (vii) none of the proceedings of the City taken preliminary to the issuance of the Bonds, as certified in such certificate, have been in any manner repealed, amended or changed; (viii) the City has complied in all respects with the provisions of Amendment 78 and the Act and has full legal right, power and authority to issue the Bonds for the purposes stated in the Act and to enter into this Bond Purchase Agreement, to adopt the Authorizing Ordinance, to issue, sell

and deliver the Bonds as provided in this Bond Purchase Agreement, and to carry out and consummate all other transactions contemplated by this Bond Purchase Agreement, the Authorizing Ordinance, the Indenture, the Continuing Disclosure Agreement and the Tax Regulatory Agreement; (ix) neither the Official Statement nor any amendment or supplement thereto contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading; (x) to the best of his knowledge, no event affecting the City has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purposes for which it is used that is necessary to disclose therein in order to make the statements and information therein not misleading in any respect; and (xi) the City is not then in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Indenture;

(7) An opinion of Kit Williams, Esq., City Attorney, dated the Closing Date and addressed to the Underwriter, Bond Counsel and the Trustee, to the effect that (i) the City is a duly organized and validly existing political subdivision and city of the first class, organized under the laws of the State of Arkansas, with full power and authority to adopt the Authorizing Ordinance and to execute and deliver the Bonds, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement and this Bond Purchase Agreement; (ii) the City has duly approved the Preliminary Official Statement and the Official Statement; (iii) the Authorizing Ordinance has been duly adopted by the City by all action necessary under the Act and the laws and Constitution of the State of Arkansas, and remains in full force and effect; (iv) the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement and this Bond Purchase Agreement have been duly authorized, approved, executed and delivered by the City and, subject to the extent that the enforceability of the rights and remedies set forth therein may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally, constitute valid and binding agreements of the City enforceable in accordance with their terms; (v) the information in the Official Statement under the captions "THE PROJECT," "THE CITY" and "LEGAL MATTERS" (apart from financial or statistical data contained or incorporated therein, as to which no view need be expressed) is fair, accurate and complete and does not omit any matter which, in such counsel's opinion, for the purposes for which the Official Statement is to be used, should be included or referred to therein; (vi) excepting those matters discussed in the Official Statement, there is no action, suit or proceeding at law or in equity before or by any court, public board or body, pending or threatened, against or affecting the City, challenging the validity of the transactions contemplated by the Official Statement or the validity of the Bonds, the Authorizing Ordinance, the Indenture, the Continuing Disclosure Agreement, the Tax Regulatory Agreement or this Bond Purchase Agreement and, to the best of such counsel's knowledge, there is no investigation, pending or threatened, and no threatened action, suit or proceeding involving any of the matters hereinabove mentioned in this clause (vi); (vii) the adoption of the Authorizing Ordinance, and the execution and delivery of the Indenture, the

Continuing Disclosure Agreement, the Tax Regulatory Agreement and this Bond Purchase Agreement, and compliance with the provisions hereof and thereof, under the circumstances contemplated hereby and thereby, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or any existing law, regulation, court order or consent decree to which the City is subject; and (viii) based upon the examinations which such counsel has made as counsel to the City, which shall be specified, nothing has come to such counsel's attention which would lead such counsel to believe that the Official Statement (except for the financial statements and other financial data included in the Official Statement, as to which no view need be expressed) contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(8) Evidence that Federal Form 8038-G has been executed by the City and is ready for filing with the Internal Revenue Service.

(9) Evidence that, except as disclosed in the Official Statement, all necessary approvals, whether legal or administrative, have been obtained from applicable federal, state and local entities and agencies; and

(10) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter and Bond Counsel may reasonably request to evidence compliance by the City with legal requirements, the truth and accuracy, as of the time of Closing, of the representations of the City herein contained and the due performance or satisfaction by the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement, or if the obligation of the Underwriter to purchase and accept delivery of the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the City shall be under further obligation hereunder; except that the respective obligations to pay expenses, as provided in Section 12 hereof, shall continue in full force and effect.

9. **Conditions to Obligations of the City.** The obligations of the City hereunder are subject to the performance by the Underwriter of its obligations hereunder.

10. **Survival.** All representations, warranties and agreements of the City shall remain operative and in full force and effect, regardless of any investigations made by or on behalf of the Underwriter, and shall survive the Closing. The obligations of the City under Sections 11 or 12 hereof shall survive any termination of this Bond Purchase Agreement by the Underwriter pursuant to the terms hereof.

11. **Indemnification.** The City, to the extent permitted by law, agrees to indemnify and hold harmless the Underwriter, each member, officer, director, partner or employee of the Underwriter and each person who controls the Underwriter within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (collectively called the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses (including any legal or other expenses incurred by an Indemnified Party in connection with investigating any claims against an Indemnified Party and defending any actions) whatsoever caused by any untrue statement or misleading statement of a material fact contained in the Official Statement or caused by any omission from the Official Statement of any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading insofar as such losses, claims, damages, liabilities or expenses are caused by any such untrue or misleading statement or omission in the information contained in the Official Statement; provided, however, that the City shall not be liable to an Indemnified Party in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based upon, any untrue statement or omission made in any of such documents in reliance upon and in conformity with written information furnished to the City by the Underwriter specifically for use therein. No Indemnified Parties shall be indemnified hereunder for any losses, claims, damages or liabilities resulting from the negligence of such Indemnified Parties.

In case any action shall be brought against one or more of the Indemnified Parties based upon the Official Statement and in respect of which indemnity may be sought against the City, the Indemnified Parties shall promptly notify the City in writing, and, to the extent permitted by law, the City shall promptly assume the defense thereof, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless employment of such counsel has been specifically authorized by the City. The City shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the City, the City agrees to indemnify and hold harmless the Indemnified Parties to the extent provided in this Bond Purchase Agreement and to the extent permitted by law.

12. **Payment of Expenses.** The City will pay or cause to be paid all reasonable expenses incident to the performance of its obligations under this Bond Purchase Agreement, including, but not limited to, expenses of mailing or delivery of the Bonds, legal publication costs, charges for obtaining CUSIP numbers on the Bonds, fees payable to The Depository Trust Company relating to the Bonds, Federal Funds charges, costs of printing the Bonds, the Preliminary and final Official Statements, any amendment or supplement to the Preliminary or final Official Statement and this Bond Purchase Agreement, fees and disbursements of Bond Counsel, accountants' fees and expenses, any fees charged by investment rating agencies for the rating of the Bonds, bond insurance premiums, if any, fees of the Trustee and any paying agent fees, and any fees and disbursements in connection with the qualification of the Bonds for sale under the securities or "Blue Sky" laws of the various jurisdictions and the preparation of "Blue Sky" memoranda. In the event this Bond Purchase Agreement shall terminate because of the default of the Underwriter, the City will, nevertheless, pay, or cause to be paid, all of the expenses specified above. The Underwriter shall pay all advertising expenses in connection with

the public offering of the Bonds, and all other expenses incurred by it in connection with the public offering and distribution of the Bonds, including the fees and expenses of any counsel retained by the Underwriter. If the City defaults under this Bond Purchase Agreement, the Underwriter may bring whatever legal action it may have against the City to recover damages, if any, incurred by the Underwriter.

13. **Notices.** Any notice or other communication to be given to the City under this Bond Purchase Agreement may be given by delivering the same in writing to the Mayor at the address set forth above, and any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to Crews & Associates, Inc., 521 President Clinton Avenue, Little Rock, AR 72201, Attention: Mr. Bob Wright.

14. **Nonassignability.** This Bond Purchase Agreement is made solely for the benefit of the City and the Underwriter (including any successor or assign of the Underwriter), and no other person, including any purchaser of the Bonds, shall acquire or have any right hereunder or by virtue hereof.

15. **Applicable Law.** This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas.

16. **Counterparts.** This Bond Purchase Agreement shall become effective upon your acceptance hereof and may be executed in counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

Very truly yours,

CREWS & ASSOCIATES, INC.

By: _____
Authorized Representative

Accepted and agreed to as of _____ p.m.
on the date first above written:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Title: Mayor

EXHIBIT A
MATURITY SCHEDULE

[\$3,165,000]
City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006A

(July 1) Maturity	Principal Amount	Interest Rate	Yield	Price
2007	\$	%	%	%
2008		%	%	%
2009		%	%	%
2010		%	%	%
2011		%	%	%

(with accrued interest on all Bonds from [July 15], 2006)

EXHIBIT B

PROPOSED FORM OF BOND COUNSEL APPROVING OPINION

Upon delivery of the Bonds in definitive form, Kutak Rock LLP, Little Rock, Arkansas, proposes to deliver its approving opinion in substantially the following form:

July __, 2006

City of Fayetteville, Arkansas
Fayetteville, Arkansas

_____, as Trustee
_____, Arkansas

Crews & Associate, Inc.
Little Rock, Arkansas

[\$3,165,000]
City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006A

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance and sale by the City of Fayetteville, Arkansas (the "City"), a political subdivision of the State of Arkansas, of its [\$3,165,000] General Obligation Bonds, Series 2006A (the "Bonds").

The Bonds are being issued pursuant to the provisions of the Constitution and laws of the State of Arkansas, including, particularly, Amendment 78 and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.* (as from time to time amended, the "Act"), pursuant to Ordinance No. _____ of the City, duly adopted and approved on June __, 2006 (the "Authorizing Ordinance"), and pursuant to a Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City and _____, as trustee (the "Trustee"). Reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Holders of the Bonds, and the terms upon which the Bonds are issued and secured.

Reference is made to an opinion of even date herewith of Kit Williams, Esq., City Attorney, a copy of which is on file with the Trustee, with respect, among other matters, to the status and valid existence of the City, the power of the City to adopt the Authorizing Ordinance and to enter into and perform its obligations under the Indenture, the valid adoption of the

Authorizing Ordinance, and the due authorization, execution and delivery of the Indenture by the City, and with respect to the Indenture being enforceable upon the City.

We have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Authorizing Ordinance and the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The City is duly created and validly existing as a municipal corporation of the State of Arkansas. Pursuant to the Constitution and laws of the State of Arkansas, including, particularly, Amendment 78 and the Act, the City is empowered to adopt the Authorizing Ordinance, to execute and deliver the Indenture, to perform the agreements on its part contained therein, and to issue the Bonds.

2. The Authorizing Ordinance has been duly adopted by the City and constitutes a valid and binding obligation of the City enforceable upon the City in accordance with its terms.

3. The Indenture has been duly authorized, executed and delivered by the City and is a valid and binding obligation of the City enforceable upon the City in accordance with its terms.

4. The Bonds have been validly authorized, executed, issued and delivered by the City and represent the valid and binding general obligations of the City. The total annual principal and interest payments on the Bonds in each fiscal year of the City shall be charged against and paid from the general revenues of the City for such fiscal year, which may include road fund revenues.

5. Interest on the Bonds is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Internal Revenue Code of 1986, as amended, that must be met subsequent to the issuance of the Bonds. Failure to comply with such requirements could cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The City has covenanted to comply with such requirements. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

6. The interest on the Bonds is exempt from all state, county and municipal taxes in the State of Arkansas.

7. The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended, in connection with the offer and sale of the Bonds.

It is to be understood that the rights of the registered owners of the Bonds and the enforceability of the Bonds, the Authorizing Ordinance and the Indenture may be subject to

bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

EXHIBIT C

PROPOSED FORM OF BOND COUNSEL SUPPLEMENTAL OPINION

July __, 2006

City of Fayetteville, Arkansas
Fayetteville, Arkansas

_____, as Trustee
_____, Arkansas

Crews & Associates, Inc.
Little Rock, Arkansas

[\$3,165,000]
City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006A

Ladies and Gentlemen:

This opinion supplements our bond approving opinion, dated the date hereof, relating to the above-captioned bonds (the "Bonds"). Except as otherwise defined herein, the terms used herein shall have the meanings prescribed for them in said opinion.

We have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

In addition to the documents specifically mentioned in the approving opinion, in connection with this opinion we have also examined:

- (a) An executed counterpart of the Bond Purchase Agreement dated June __, 2006 (the "Bond Purchase Agreement"), by and between the City and Crews & Associates, Inc., as underwriter (the "Underwriter");
- (b) An executed counterpart of the Continuing Disclosure Agreement dated July __, 2006 (the "Disclosure Agreement"), by and between the City and _____, as trustee (the "Trustee");
- (c) An executed counterpart of the Tax Regulatory Agreement dated July __, 2006 (the "Tax Regulatory Agreement"), by and between the City and the Trustee; and

(d) Portions of the Official Statement dated June __, 2006, with respect to the Series 2006 Bonds (the "Official Statement"), captioned "INTRODUCTORY STATEMENT," "THE BONDS," "SECURITY FOR THE BONDS," "SOURCES AND USES OF FUNDS," "DEFINITIONS OF CERTAIN TERMS," "SUMMARY OF THE INDENTURE," "SUMMARY OF THE CONTINUING DISCLOSURE AGREEMENT," "TAX MATTERS," and "APPENDIX A -- Form of Opinion of Bond Counsel" (the "Relevant Captions") insofar as they relate to this opinion.

Based on our examination, we are of the opinion, as of the date hereof and under existing law, as follows:

1. The Bond Purchase Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Underwriter, the Bond Purchase Agreement constitutes the valid and binding agreement of the City enforceable in accordance with its terms.

2. The Disclosure Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Trustee, the Disclosure Agreement constitutes the valid and binding agreement of the City enforceable in accordance with its terms.

3. The Tax Regulatory Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Trustee, the Tax Regulatory Agreement constitutes the valid and binding agreement of the City enforceable in accordance with its terms.

4. The statements contained in the Official Statement under the Relevant Captions, insofar as such statements purport to summarize certain provisions of the Bonds, the Indenture and the Continuing Disclosure Agreement, or conclusions of law and legal opinions, are true, accurate and correct summaries thereof in all material respects and do not omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

The enforceability of the respective obligations of the parties to the documents and other items described above, and the availability of certain rights and remedies provided for therein, may be limited by bankruptcy, receivership, insolvency, reorganization, moratorium, marshalling or other similar statutes or rules of law affecting creditors' rights and remedies, to general principles of equity and to the discretion of any court in granting any relief or issuing any order, whether the proceeding is considered a proceeding at law or equity. In particular, the right to indemnification under any of the documents or other items described above may be limited by federal or state securities laws or by the public policy underlying such laws.

This opinion is being rendered to you solely for your use and benefit and may not be relied upon in any manner, nor used, by any other person.

Very truly yours,

KUTAK ROCK LLP
DRAFT 05/26/06

PRELIMINARY OFFICIAL STATEMENT DATED JUNE __, 2006

NEW ISSUE
BOOK-ENTRY ONLY

NOT RATED

In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions and assuming the accuracy of certain representations and continuing compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. Under existing laws, regulations, rulings and judicial decisions, Bond Counsel is of the opinion that the Bonds and the interest thereon are exempt from all state, county and municipal taxes in the State of Arkansas. The City has not designated the Bonds as "qualified tax-exempt obligations" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. For a more complete description, see the caption "TAX MATTERS" herein.

[**\$3,565,000**]*
CITY OF FAYETTEVILLE, ARKANSAS
GENERAL OBLIGATION BONDS
SERIES 2006A

Dated: [July 15], 2006

Due: July 1, as shown below

The General Obligation Bonds, Series 2006A (the "Bonds"), are being issued by the City of Fayetteville, Arkansas (the "City") for the purpose of (i) financing the acquisition, construction and equipping of additional fire station facilities within the City, and (ii) paying certain expenses in connection with the issuance of the Bonds. See the captions "ESTIMATED SOURCES AND USES OF FUNDS" and "THE PROJECT" herein.

The Bonds are issuable only as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York, to which principal, premium, if any, and interest payments on the Bonds will be made so long as Cede & Co. is the registered owner of the Bonds. Individual purchases of the Bonds will be made only in book-entry form, in denominations of \$5,000 or integral multiples thereof. Individual purchasers ("Beneficial Owners") of Bonds will not receive physical delivery of bond certificates. See the caption "BOOK-ENTRY ONLY SYSTEM" herein.

The Bonds shall bear interest from their dated date, payable on January 1 and July 1 of each year, commencing January 1, 2007. All such interest payments shall be payable to the persons in whose name such Bonds are registered on the bond registration books maintained by _____ as trustee (the "Trustee"), as of the fifteenth day of the calendar month preceding the calendar month in which the applicable interest payment date falls. Principal of and premium, if any, on the Bonds shall be payable at the principal corporate trust office of the Trustee. So long as DTC or its nominee is the registered owner of the Bonds, disbursement of such payments to DTC Participants is the responsibility of DTC, and the disbursement of such payments to Beneficial Owners is the responsibility of DTC Participants or Indirect Participants, as more fully described herein.

The Bonds are issued and secured pursuant to a Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City and the Trustee, and constitute general obligations of the City under Amendment 78 to the Constitution of the State of Arkansas. See the caption "SECURITY FOR THE BONDS" herein. The Bonds are subject to mandatory [and optional] redemption prior to maturity as more fully described herein under the caption "THE BONDS - Redemption."

MATURITY SCHEDULE*

Maturity (July 1)	Principal Amount	Interest Rate	Price
2007	\$ 660,000	%	%
2008	685,000		
2009	710,000		
2010	740,000		
2011	770,000		

(Accrued interest from [July 15], 2006 to be added)

The Bonds are offered when, as and if issued by the City and are subject to the final approving opinion of Kutak Rock LLP, Little Rock, Arkansas, Bond Counsel. Certain matters will be passed upon for the City by its counsel, Kit Williams, Esq., City Attorney. It is expected that the Bonds will be available for delivery in New York, New York, on or about July __, 2006.

Crews & Associates, Inc.

The date of this Official Statement is June __, 2006.

* Preliminary; subject to change.

CITY OF FAYETTEVILLE, ARKANSAS

Issuer

City Council

Dan Coody, Mayor

Kyle Cook

Bobby Ferrell

Lioneld Jordan

Shirley Lucas

Don Marr

Robert Reynolds

Robert Rhoads

Brenda Thiel

[Stephen Davis, Finance and Internal Services Director]

Sondra Smith, City Clerk

Kit Williams, City Attorney

Trustee and Paying Agent

KUTAK ROCK LLP

Little Rock, Arkansas

Bond Counsel

CREWS & ASSOCIATES, INC.

Little Rock, Arkansas

Underwriter

No dealer, broker, salesman or other person has been authorized by the City or by Crews & Associates, Inc. (the "Underwriter") to give any information or to make any representations, other than those contained herein; and, if given or made, such other information or representations must not be relied upon as having been authorized by either of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of any Bonds in any jurisdiction in which such offer is not authorized, or in which the person making such offer, solicitation or sale is not qualified to do so, or to any person to whom it is unlawful to make such offer, solicitation or sale. The information and expressions of opinion contained herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereof.

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE TRUST INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON CERTAIN EXEMPTIONS FROM SUCH REGISTRATION AND QUALIFICATION CONTAINED IN SUCH LAWS.

CERTAIN INFORMATION CONTAINED HEREIN HAS BEEN OBTAINED FROM THE CITY, THE DEPOSITORY TRUST COMPANY AND OTHER SOURCES WHICH ARE BELIEVED TO BE RELIABLE. THE UNDERWRITER HAS REVIEWED THE INFORMATION IN THIS OFFICIAL STATEMENT IN ACCORDANCE WITH, AND AS PART OF, ITS RESPONSIBILITIES TO INVESTORS UNDER THE FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITER DOES NOT GUARANTY THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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PRELIMINARY OFFICIAL STATEMENT

[\$3,565,000]*

CITY OF FAYETTEVILLE, ARKANSAS GENERAL OBLIGATION BONDS SERIES 2006A

INTRODUCTORY STATEMENT

The following introductory statement is subject in all respects to the more complete information set forth in this Official Statement. All descriptions and summaries of documents hereinafter set forth are qualified in their entirety by reference to each such document. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms under the caption "DEFINITIONS OF CERTAIN TERMS" herein.

This Official Statement, including the cover page and the Appendices hereto, is furnished in connection with the offering by the City of Fayetteville, Arkansas (the "City") of its General Obligation Bonds, Series 2006A, in the principal amount of [\$3,565,000]* (the "Bonds").

The City is a city of the first class organized and existing under the laws of the State of Arkansas (the "State"). The City is authorized under Amendment 78 to the Constitution of the State ("Amendment 78") and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) §§14-78-101 *et seq.* (as from time to time amended, the "Act"), to issue and sell its "short-term financing obligations" (as defined in the Act) for the purpose of financing the costs of acquiring, constructing and installing real property or tangible personal property having an expected useful life of more than one year, which short-term financing obligations shall be secured by and payable from the general revenues of the City.

The Bonds are to be issued by the City pursuant to Amendment 78, the Act and Ordinance No. _____, adopted and approved on June __, 2006 (the "Authorizing Ordinance"), for the purpose of (i) financing the acquisition, construction and equipping of additional fire station facilities within the City, and (ii) paying certain expenses in connection with the issuance of the Bonds. See the captions "ESTIMATED SOURCES AND USES OF FUNDS" and "THE PROJECT" herein.

The Bonds are general obligations of the City, payable as to principal and interest out of the Trust Estate, which shall include the general revenues of the City, all in accordance with the provisions of Amendment 78 and the Act. The total annual principal and interest requirements on the Bonds in each fiscal year of the City shall be charged against and paid from the general revenues of the City for such fiscal year, including road fund revenues. The Bonds shall constitute an indebtedness for which the full faith and credit of the City are pledged within the meaning of State constitutional and statutory limitations. See the caption "SECURITY FOR THE BONDS" herein.

The Bonds are subject to redemption from excess moneys in the Project Fund following completion of the Project. [OPTIONAL REDEMPTION?] See the caption "THE BONDS – *Redemption*" herein.

Pursuant to the provisions of a Continuing Disclosure Agreement dated as of the date of delivery of the Bonds, by and between the City and the Trustee (the "Continuing Disclosure Agreement"), the City has undertaken certain obligations with respect to providing ongoing disclosure of certain financial and operating data concerning the City and of the occurrence of certain material events. See the caption "SUMMARY OF THE CONTINUING DISCLOSURE AGREEMENT" herein.

This Official Statement contains brief descriptions or summaries of, among other matters, the City, the Bonds, the Continuing Disclosure Agreement, and the Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City and _____, _____, Arkansas, as trustee (the "Trustee"), pursuant to which the Bonds are issued and secured. Such descriptions and information do not purport to be comprehensive or definitive. All references herein to the Indenture and the Continuing Disclosure Agreement are qualified in their entirety by reference to each such document, and all references to the Bonds are qualified in their entirety by reference to the definitive form thereof and the information with respect thereto included in the Indenture. Copies of the Continuing Disclosure Agreement, the Indenture, and the form of Bond included therein, are available from the City by writing to the attention of the [Finance and Internal Services Director], City of Fayetteville, City Administration Building, 113 West Mountain, Fayetteville, Arkansas 72701 and, during the initial offering period only, from the Underwriter, Crews & Associates, Inc., 521 President Clinton Avenue, Little Rock, Arkansas 72201.

Certain financial and operating data has been provided by the City from the audited records of the City and certain demographic information has been obtained from other sources which are believed to be reliable.

* Preliminary; subject to change.

THE BONDS

Description. The Bonds will be initially dated as of [July 15], 2006, and will bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2007, at the rates set forth on the cover page hereof. The Bonds will mature on July 1 in the years and in the principal amounts set forth on the cover page hereof.

The Bonds are issuable only in the form of fully registered bonds and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York, to which principal, premium, if any, and interest payments on the Bonds will be made so long as Cede & Co. is the registered owner of the Bonds. Individual purchases of the Bonds will be made only in book-entry form, in denominations of \$5,000 or integral multiples thereof. Individual purchasers ("Beneficial Owners") of Bonds will not receive physical delivery of bond certificates. See the caption "BOOK-ENTRY ONLY SYSTEM" herein.

All interest payments on the Bonds shall be payable to the persons in whose name such Bonds are registered on the bond registration books maintained by the Trustee, as of the fifteenth day of the calendar month preceding the calendar month in which the applicable interest payment date falls. Principal of and premium, if any, on the Bonds shall be payable at the principal corporate trust office of the Trustee. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid. So long as DTC or its nominee is the registered owner of the Bonds, disbursement of such payments to DTC Participants is the responsibility of DTC, and the disbursement of such payments to Beneficial Owners is the responsibility of DTC Participants or Indirect Participants, as more fully described herein.

Redemption. The Bonds are subject to redemption prior to maturity as follows:

(i) The Bonds shall be redeemed prior to maturity, in whole or in part, on any interest payment date, in inverse order of maturity and by lot in such manner as the Trustee shall determine within a maturity, at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest to the date of redemption, from moneys in the Project Fund in excess of the amount needed to complete the Project.

(ii) [OPTIONAL REDEMPTION?].

Partial Redemption of a Bond. If less than all of the Bonds of a series and maturity are called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by lot in such manner as the Trustee in its discretion may deem fair and appropriate. So long as DTC or its nominee is the sole registered owner of the Bonds, the procedures established by DTC shall control with respect to the selection of the particular Bonds to be redeemed.

Notice of Redemption. Notice of the call for any redemption, identifying the Bonds or portions thereof being called and the date on which they shall be presented for payment, shall be mailed by the Trustee by first class mail (or, so long as DTC or its nominee is the sole registered owner of the Bonds, by any other means acceptable to DTC, including facsimile) to the registered owner of each such Bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure or defect has occurred. Any notice mailed as provided above shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice.

Transfer or Exchange. The Bonds may be transferred on the books of registration kept by the Trustee by the registered owner in person or by the owner's duly authorized attorney, upon surrender thereof, together with a written instrument of transfer duly executed by the registered owner or the owner's duly authorized attorney. Upon surrender for transfer of any Bond at the principal corporate office of the Trustee, the City shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of the same series and in the same aggregate principal amount and of any authorized denomination or denominations.

Transfers of registration or exchanges of Bonds shall be without charge to the Holders of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Holder of the Bond requesting such transfer or exchange as a condition precedent to the exercise of such privilege.

The Trustee shall not be required to transfer or exchange any Bond during the period from and including a Record Date to the next succeeding interest payment date of such Bond nor to transfer or exchange any Bond after the mailing of notice calling such Bond for redemption has been made, and prior to such redemption.

So long as DTC or its nominee is the sole registered owner of the Bonds, transfers of beneficial interests in the Bonds shall be in accordance with the rules and procedures of DTC and its direct and indirect participants. See the caption "BOOK-ENTRY ONLY SYSTEM" herein.

SECURITY FOR THE BONDS

Generally. The Bonds are general obligations of the City, payable as to principal and interest out of the Trust Estate, which shall include all general revenues of the City in accordance with the provisions of Amendment 78 and the Act. The total annual principal and interest requirements on the Bonds in each fiscal year of the City shall be charged against and paid from the general revenues of the City for such fiscal year, including road fund revenues. The Bonds shall constitute an indebtedness for which the full faith and credit and taxing power of the City are pledged within the meaning of Amendment 78 and the Act.

The general revenues of the City for the fiscal year ended December 31, 2005, that would have been available to pay debt service on the Bonds (i.e., not legally restricted to some other use) were \$ _____. These general revenues were comprised primarily of ad valorem tax receipts (\$ _____), sales tax receipts (\$ _____), service charges (\$ _____), license and permit fees (\$ _____), fines and forfeitures (\$ _____) and _____.

Set forth below is a table showing historical collections of general revenues legally available to pay debt service on the Bonds:

Fiscal Year	General Revenues ⁽¹⁾
2001	\$
2002	
2003	
2004	
2005	

(1) Legally available to pay debt service on the Bonds.

Ad Valorem Taxes. Under Article 12, Section 4 of the Constitution of the State of Arkansas, a municipality is authorized to annually levy an ad valorem tax for general purposes at a rate not to exceed five (5) mills on each dollar of the assessed value of real and personal property within such municipality. For 2006, the City has levied such an ad valorem tax at the rate of _____ mills. Prior levies were _____ mills in 2005, _____ mills in 2004, _____ mills in 2003, _____ mills in 2002 and _____ mills in 2001.

Ad Valorem Taxes Generally. [Because ad valorem tax receipts make up the largest portion of the City's general revenues available to pay debt service on the Bonds, their assessment and collection is discussed in some detail below.]

Taxable real property is valued for tax purposes as of January 1 of each year and only real property owned by a taxpayer on January 1 is assessed for that calendar year. The assessment process is subject to rights of taxpayers to appeal and is not finalized until November of the year of assessment. Real property is currently assessed in an amount equal to 20% of its value, but this percentage can be increased or decreased by action of the Arkansas General Assembly. Following assessment, the total of the millage levied by each taxing entity (municipalities, counties, school districts and community college districts) in which the property is located is applied against the assessed value to determine the tax owed. The total taxes levied by all taxing authorities are collected together by the county collector of the county in which the property is located in the calendar year immediately following the year in which such taxes were levied. Taxes are due and payable between the third Monday in February and October 10. Taxes not paid by October 10 are deemed delinquent and are subject to a 10% penalty. Real estate as to which taxes are delinquent for two successive years is certified to the State Land Commissioner, who offers the property for sale. The proceeds of such sale are apportioned among the taxing authorities to which taxes are owed. Delinquent real property may be redeemed by the taxpayer within two years of the delinquency.

For an historical view of the assessed value of real and personal property within the entire City, see the caption "THE CITY - *Economic Data*" herein.

Effect of Amendment 59. Under Amendment 59 to the Constitution of the State of Arkansas, all real property is subject to ad valorem taxation except for the following exempt categories: (i) public property used exclusively for public purposes; (ii) churches used as such; (iii) cemeteries used exclusively as such; (iv) school buildings; (v) libraries and grounds used exclusively for school purposes; and (vi) buildings and grounds used exclusively for public charity. Amendment 59 also authorizes the General Assembly to exempt from taxation the first \$20,000 of value of a homestead of a taxpayer 65 years of age or older. Amendment 59 further provides that, except as provided therein in connection with the transition period following a county-wide reassessment (see also the discussion below regarding Amendment 79), (1) residential real property used solely as the principal place of residence of the owner shall be assessed in accordance with its value as a residence, (2) land (but not improvements thereon) used primarily for agricultural, pasture, timber, residential and commercial purposes shall be assessed upon the basis of its value for such use, and (3) all other real property subject to taxation shall be assessed according to its value. The Arkansas Supreme Court has held that the word "value," as used in a prior, substantially identical constitutional provision, means "current market value".

Property owned by public utilities and common carriers and "used and/or held for use in the operation of the company..." is assessed for tax purposes by the Tax Division of the Arkansas Public Service Commission. Arkansas Code Annotated (1997 Repl.) Section 26-26-1605 provides that the Tax Division "shall assess the property at its true and full market or actual value" and that all utility property of a company, whether located within or without the State of Arkansas, is to be valued as a unit. Annually, each public utility and common carrier is required to file a report with the Tax Division. The Tax Division then reviews these reports, along with other reports (such as reports to shareholders, the Federal Communications Commission, the Federal Energy Regulatory Commission and the Interstate Commerce Commission), to determine the value of the property. Valuation is currently made on the basis of a statutorily prescribed formula with consideration given to (i) original cost less depreciation, replacement cost less depreciation or reconstruction cost less depreciation; (ii) market value of capital stock and funded debt; and (iii) capitalization of income. Once the value of a company's property as a unit is determined, the Tax Division removes the value allocable to out-of-state property and allocates the remainder among Arkansas taxing units on the basis of relative value within each jurisdiction. The Tax Division certifies the assessment to the county assessor who enters the assessment on the county assessment roll. County officials have no authority to change such assessment.

All other real property is assessed by the elected assessor of each Arkansas county or other officials designated by law.

Effect of Amendment 79. Amendment 79 to the Constitution of the State of Arkansas requires each county to appraise all market value real estate normally assessed by the county assessor at its full and fair value at a minimum of once every five years. The most recent county-wide reassessment in Washington County was completed in 2004 and the next such reassessment is scheduled for completion in 2007. Following any such county reappraisal, the county assessor is required to compare the assessed value of each parcel of real property reappraised or reassessed to the prior year's assessed value. If the assessed value of a parcel increased, then the assessed value must be adjusted as provided below. Subject to the special circumstances described in the second following paragraph, if a parcel is not the homestead and principal place of residence ("homestead") of a taxpayer, then any increase in the assessed value in the first year after reappraisal cannot be greater than 10% (or 5% if the parcel is the taxpayer's homestead) of the assessed value for the previous year. For each year thereafter, the assessed value shall increase by an additional 10% (or 5% if the parcel is the taxpayer's homestead) of the assessed value for the year preceding the first reassessment resulting from reappraisal; however, the increase cannot exceed the assessed value determined by the reappraisal prior to the adjustment mandated by Amendment 79. For property owned by public utilities and common carriers, any annual increase in the assessed value cannot exceed more than 10% of the assessed value for the previous year. The Amendment 79 limitations on increases in assessed value do not apply to newly discovered real property, new construction or substantial improvements to real property.

If a homestead is purchased or constructed on or after January 1, 2001 by a disabled person or by a person over the age of 65, then that parcel will be assessed based on the lower of the assessed value as of the date of purchase or construction or a later assessed value. If a person is disabled or is at least 65 years of age and owns a homestead on January 1, 2001, then the homestead will be assessed based on the lower of the assessed value on January 1, 2001 or a later assessed value. When a person becomes disabled or reaches age 65 on or after January 1, 2001, that person's homestead should thereafter be assessed based on the lower of the assessed value on the person's 65th birthday, on the date the person becomes disabled or a later assessed value. The provisions of this paragraph do not apply to substantial improvements to real property. For real property described in the following paragraph, the

applicable date, in lieu of January 1, 2001, is January 1 of the year following completion of the adjustments to assessed value described in the following paragraph.

If there has been no county-wide reappraisal and resulting reassessment of value of real property in a county between January 1, 1986 and December 1, 2000, then the assessed value of real property within that county is adjusted in a different manner from the process described above. In such case, the assessor compares the assessed value of each parcel to the assessed value of the parcel for the previous year. If the assessed value of the parcel has increased, then the assessed value of the parcel for the year in which the parcel is reappraised is adjusted by adding one-third (1/3) of the increase to the assessed value for the year prior to reappraisal. An additional one-third (1/3) of the increase is added in each of the next two years. The adjustment contemplated by this paragraph does not apply to the property of public utilities and common carriers. No adjustment will be made for newly discovered real property, new construction or substantial improvements to real property.

[DETAILED DISCUSSION OF SALES TAX RECEIPTS OR OTHER MAJOR COMPONENT OF GENERAL REVENUES?]

General Obligation Debt Limitations. Under the provisions of Amendment 62 to the Constitution of the State of Arkansas ("Amendment 62"), the maximum principal amount of a municipality's indebtedness secured by a tax on real or personal property which may be outstanding at any time is limited to twenty percent (20%) of the total assessed value of taxable real and personal property located within such municipality, as determined by the last property tax assessment. The issuance of Amendment 62 obligations requires the approval of the electors of a municipality. [The City presently has no outstanding general obligation indebtedness to which the Amendment 62 limit is applicable.]

Amendment 78 permits the issuance of "short-term financing obligations" by Arkansas municipalities notwithstanding the requirements and limitations of Amendment 62. Under Amendment 78, a city may issue indebtedness having a term not to exceed five (5) years for the purpose of acquiring, constructing, installing or renting real or tangible personal property having a useful life of more than one year. Under Amendment 78, the aggregate principal amount of Amendment 78 short-term financing obligations that may be outstanding at any time is limited to five percent (5%) of the total assessed value of taxable real and personal property located within a municipality, as determined by the last property tax assessment. No vote of the electors of a city is required for the issuance of Amendment 78 obligations. The City currently has one Amendment 78 obligation outstanding in the principal amount of \$_____.

BOOK-ENTRY ONLY SYSTEM

The Bonds will be issued only as one fully registered Bond for each maturity, in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), as registered owner of all the Bonds. The fully registered Bonds will be retained and immobilized in the custody of DTC.

DTC (or any successor securities depository) or its nominee for all purposes under the Indenture will be considered by the City and the Trustee to be the owner or holder of the Bonds.

Owners of any book entry interests in the Bonds (the "book entry interest owners") described below, will not receive or have the right to receive physical delivery of the Bonds, and will not be considered by the City and the Trustee to be, and will not have any rights as, owners or holders of the Bonds under the bond proceedings and the Indenture except to the extent, if any, expressly provided thereunder.

CERTAIN INFORMATION REGARDING DTC AND DIRECT PARTICIPANTS IS SET FORTH BELOW. THIS INFORMATION HAS BEEN PROVIDED BY DTC. THE CITY, THE UNDERWRITER AND BOND COUNSEL ASSUME NO RESPONSIBILITY FOR THE ACCURACY OF SUCH STATEMENTS.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over two million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues and money market instruments from over 85 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges among Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The

Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and by Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation and Emerging Markets Clearing Corporation (NSCC, GSCC, MBSCC and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Direct and Indirect Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtc.com.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the Book-Entry System for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds, DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are to be redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the Record Date. The Omnibus Proxy will assign Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the Record Date (identified in a listing attached to the Omnibus Proxy).

Payment of debt service and redemption proceeds with respect to the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Trustee on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds and debt service to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

BENEFICIAL OWNERS SHOULD CONSULT WITH THE DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS FROM WHOM THEY PURCHASE A BOOK ENTRY INTEREST TO OBTAIN INFORMATION CONCERNING THE SYSTEM MAINTAINED BY SUCH DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS TO RECORD SUCH INTERESTS, TO MAKE PAYMENTS, TO FORWARD NOTICES OF REDEMPTION AND OF OTHER INFORMATION.

THE CITY AND THE TRUSTEE HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY ASPECTS OF THE RECORDS OR NOTICES RELATING TO, OR PAYMENTS MADE ON ACCOUNT OF, BOOK ENTRY INTEREST OWNERSHIP, OR FOR MAINTAINING, SUPERVISING OR REVIEWING ANY RECORDS RELATING TO THAT OWNERSHIP.

The Trustee and the City, so long as a book entry method of recording and transferring interests in the Bonds is used, will send any notice of redemption or of any Indenture amendment or supplement or other notices to Bondholders under the Indenture only to DTC (or any successor securities depository) or its nominee. Any failure of DTC to advise any Direct Participants, or of any Direct Participants or Indirect Participants to notify any Beneficial Owner, of any such notice and its content or effect will not affect the validity of the redemption of the Bonds called for redemption, the Indenture amendment or supplement, or any other action premised on notice given under the Indenture.

The City and the Trustee cannot and do not give any assurances that DTC, Direct Participants, Indirect Participants or others will distribute payments of debt service on the Bonds made to DTC or its nominee as the registered owner of the Bonds, or any redemption or other notices, to the Beneficial Owners, or that they will do so on a timely basis, or that DTC will serve and act in a manner described in this Official Statement.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the City or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, bond certificates are required to be printed and delivered.

In addition, the City may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered.

THE PROJECT

The Project will consist of the acquisition, construction and equipping of two fire stations and related facilities within the City. The first station ("Station #5") is a replacement for an existing temporary station and will be located at Root Park near the intersection of Crossover and Old Wire Roads. It will contain approximately _____ square feet and will be of a [CONSTRUCTION TYPE]. [DESCRIBE VEHICLES] will be housed at Station #5. This addition will decrease response times in the [eastern portions] of the City.

The second station ("Station #3") will provide expanded service to newly annexed and developing portions in the [southeast area] of the City. It will be located at the former Tyson Foods complex at the intersection of Huntsville and Happy Hollow Roads. It will contain approximately _____ square feet and will be of a [CONSTRUCTION TYPE]. [DESCRIBE VEHICLES] will be housed at Station #3, as well as the City Fire Department's training division and the fire marshal's office.

The total cost of the Project is presently expected to be approximately \$3.5 million. This cost estimate has been developed by [the various design firms involved in the Project and includes allowances for inflation.] The preliminary construction schedule for Station #5 anticipates commencement in the _____ quarter of 200__ and completion in the _____ quarter of 200__. The preliminary construction schedule for Station #3 anticipates commencement in the _____ quarter of 200__ and completion in the _____ quarter of 200__.

ESTIMATED SOURCES AND USES OF FUNDS

The proceeds of the Bonds are expected to be used as follows:

Sources of Funds⁽¹⁾

Par Amount of Bonds	<u>\$3,565,000</u>
Total Sources:	<u>\$3,565,000</u>

Uses of Funds⁽¹⁾

Deposit to Project Fund	\$3,500,000
Costs of Issuance and Underwriter's Discount	<u>65,000</u>
Total Uses:	<u>\$3,565,000</u>

⁽¹⁾ Preliminary, subject to change.

ESTIMATED DEBT SERVICE REQUIREMENTS

The following table sets forth estimates of the amounts required to pay scheduled principal of and interest on the Bonds during each year:

<u>Year</u>	<u>Principal</u>	<u>Interest⁽¹⁾</u>	<u>Total Debt Service</u>
2007	\$ 660,000	\$ 144,520	\$ 804,520
2008	685,000	118,450	803,450
2009	710,000	91,050	801,050
2010	740,000	62,295	802,295
2011	<u>770,000</u>	<u>31,955</u>	<u>801,955</u>
Totals:	<u>\$3,565,000</u>	<u>\$ 448,270</u>	<u>\$4,013,270</u>

(1) Preliminary; subject to change. Assuming for purposes of this Preliminary Official State, an average coupon rate on the Bonds of 4.086% per annum.

ESTIMATED DEBT SERVICE COVERAGE

The following table shows estimated maximum annual debt service coverage with respect to the Bonds utilizing the most recent twelve months of _____.

Historical _____ ⁽¹⁾	\$
Maximum Annual Debt Service Requirement on the Bonds ⁽²⁾	\$ 804,520
Maximum Annual Debt Service Coverage	<u>X</u>

(1) _____ receipts for the twelve-month period from January 1, 2005 to December 31, 2005.

(2) Preliminary; subject to change. See the caption "ESTIMATED DEBT SERVICE REQUIREMENTS" herein.

THE COVERAGE NUMBERS SET FORTH ABOVE ARE BASED ON HISTORICAL RECEIPTS. ACTUAL RECEIPTS OF THE _____ WILL DEPEND ON NUMEROUS FACTORS, AND THERE CAN BE NO ASSURANCE THAT FUTURE RECEIPTS AVAILABLE TO PAY DEBT SERVICE ON THE BONDS WILL APPROXIMATE SUCH HISTORICAL RESULTS.

THE CITY

General. The City is a city of the first class organized and existing under the laws of the State of Arkansas. The City is the seat of government of Washington County (the "County") and is the fourth largest city in the State. The City is located in the Metropolitan Statistical Area of Fayetteville/Springdale/Rogers (the "MSA"), which includes all of Washington and Benton Counties in the northwest corner of the State and is approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma, and 210 miles south of Kansas City, Missouri.

The City is served by U.S. Interstate 540, U.S. Highways 62 and 71, and State Highways 16, 45, 112, 156, 180 and 265. The Burlington Northern Railroad has several lines running through the City, and a general aviation airport with a 6,006-foot runway is available for limited commuter travel. The Northwest Arkansas Regional Airport is located approximately 40 minutes from downtown Fayetteville and provides daily flights to numerous venues.

Government. The City currently operates under the Mayor-Council form of government pursuant to which a mayor, city attorney, city clerk and eight aldermen are elected, two from each of the City's four wards. The mayor, city attorney and city clerk are full-time positions elected to four year terms. Aldermen also serve four year terms.

The City's elected officials and the dates on which their respective terms expire are as follows:

Name	Office	Term Expires
Dan Coody	Mayor	12/31/08
Kit Williams	City Attorney	12/31/06
Sondra Smith	City Clerk	12/31/08
Kyle Cook	Alderman	12/31/06
Lioneld Jordan	Alderman	12/31/08
Don Marr	Alderman	12/31/08
Robert Reynolds	Alderman	12/31/06
Shirley Lucas	Alderman	12/31/06
Brenda Thiel	Alderman	12/31/08
Robert Rhoads	Alderman	12/31/06
Bobby Ferrell	Alderman	12/31/08

Population. The following is a table of population changes for the City, the MSA and the State of Arkansas, according to the United States Census Bureau:

Year	City of Fayetteville	MSA	State of Arkansas
1960	20,274	92,069	1,786,272
1970	30,729	127,846	1,923,322
1980	36,608	178,609	2,286,435
1990	42,099	210,908	2,350,624
2000	58,047	311,121	2,673,400

Economic Data. Per capita personal income figures for the MSA and the State of Arkansas are as follows:

Year	MSA	State of Arkansas
1992	\$18,260	\$16,425
1993	18,765	16,995
1994	19,590	17,750
1995	20,193	18,546
1996	20,870	19,442
1997	21,586	20,228
1998	22,893	21,256
1999	24,213	22,223
2000	23,316	21,995
2001	24,585	22,750
2002	24,788	23,556
2003	25,359	24,384
2004		

Source: Bureau of Economic Analysis.

Retail sales figures for the MSA and the State are as follows:

Year	MSA	State of Arkansas	MSA as % of State of Arkansas
1993	\$1,880,105,000	\$16,997,721,000	11.06%
1994	2,217,229,000	19,090,516,000	11.61
1995	2,486,425,000	20,998,923,000	11.84
1996	2,692,554,000	22,053,022,000	12.21
1997	2,845,968,000	22,872,236,000	12.44
1998	3,018,896,000	23,944,647,000	12.61

1999*	n/a	n/a	n/a
2000	3,526,791,000	28,488,033,000	12.38
2001	3,806,422,000	29,652,693,000	12.84
2002	3,841,326,000	29,269,775,000	13.12
2003	3,968,812,000	29,920,716,000	13.26
2004	4,610,051,000	31,463,983,000	14.65
2005			

* Methodology changed to calendar year basis. No reliable information is available for 1999.

Source: Sales and Marketing Management Survey of Buying Power.

The following table shows the total assessed value of non-utility real and personal property within the City for the years indicated:

Year	Real Property	Personal Property	Total
1994	\$245,093,513	\$ 86,322,277	\$331,415,790
1995	340,593,452	101,274,620	441,868,072
1996	359,369,202	113,157,365	472,526,567
1997	382,798,143	120,064,627	502,862,770
1998	401,001,338	127,575,096	528,576,434
1999	413,648,415	137,404,499	551,052,914
2000	432,951,171	145,147,891	578,099,062
2001	486,853,822	155,794,579	642,648,401
2002	541,004,690	158,688,783	699,693,473
2003	565,846,525	167,638,657	733,485,182
2004	649,361,820	183,102,702	832,464,522
2005			

Source: Washington County Tax Assessor's Office. The assessed value represents 20% of the appraised value of property.

Building permits issued by the City⁽¹⁾ are shown below for the years indicated:

	2001	2002	2003 ⁽²⁾	2004	2005
Residential Building Permits	339	328	735	755	
Commercial Building Permits	38	35	31	29	
Value of All Building Permits	\$85,262,302	\$100,809,486	\$179,007,987	\$164,695,359	

(1) Does not include building activity of the University of Arkansas, school permits and additions/alterations to existing structures.

(2) Increase largely due to the permitting of a significant number of multifamily developments as well as an acceleration of permit requests in advance of the imposition of impact fees by the City.

Source: City of Fayetteville.

Unemployment figures for the MSA and the State of Arkansas, according to the U.S. Bureau of Labor Statistics, are as follows:

Year	MSA	State of Arkansas
2000	2.1	4.4%
2001	1.7	5.1
2002	2.4	5.4
2003	3.0	6.2
2004	3.6	5.7
2005		
2006*		

* _____ 2006 only, preliminary.

Employment and Industry. The principal campus of the University of Arkansas is located in the City and had total enrollment for the Spring semester of 2006 of approximately _____. For the 2005-06 fiscal year ending June 30, 2006, the University has an operating budget in excess of \$228 million, which does not include the agricultural experimentation station or other associated operations. On the Fayetteville campus, the University employs approximately 3,600 faculty, administrative, secretarial, clerical and maintenance personnel in both full-time and part-time positions, making the University the largest employer in the City.

Other major employers in the City, their products or services and approximate number of employees are set forth below: [UPDATE]

Employer	Product or Service	Employee Range
Pinnacle Foods Corporation	Frozen Dinners	1,000-2,499
Superior Industries	Cast Aluminum Wheels	1,000-2,499
Washington Regional Medical Center	Medical	1,000-2,499
Fayetteville School District	Education	500-999
Tyson Foods, Inc.	Food Products	500-999
City of Fayetteville	Government	500-999
Arkansas Western Gas Co.	Utilities	300-499
Ayrshire Electronics	Manufacturing	300-499
Dillard's Department Store	Retail	300-499
McClinton Anchor Company	Limestone & Hot Mix	300-499
Veterans Admin. Med. Ctr.	Medical	300-499
Wal-Mart Supercenter	Retail	300-499
Washington County Gov't.	Government	300-499

Source: Fayetteville Chamber of Commerce.

DEFINITIONS OF CERTAIN TERMS

The following are definitions of certain terms used in this Official Statement:

"Act" means the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (Supp. 2005) Sections 14-78-101 *et seq.*, as from time to time amended.

"Amendment 62" means Amendment No. 78 to the Constitution of Arkansas, approved by the voters of the State on November 7, 2000.

"Authorized Representative" means either the Mayor [or the Finance Director of the City] and such additional persons as from time to time may be designated to act on behalf of the City by a Certificate furnished to the Trustee containing the specimen signature thereof and executed on behalf of the City by its Mayor.

"Authorizing Ordinance" means Ordinance No. _____, adopted by the City on [June ____], which authorized the issuance of the Bonds pursuant to the Indenture.

"Beneficial Owner" means any Person who acquires beneficial ownership interest in a Bond held by the Securities Depository. In determining the Beneficial Owner of any Bond, the Trustee may rely exclusively upon written representations made and information given to the Trustee by the Securities Depository or its Participants with respect to any Bond held by the Securities Depository in which a beneficial ownership interest is claimed.

"Bond Counsel" means any firm of nationally recognized municipal bond counsel selected by the City and acceptable to the Trustee.

"Bond Fund" means the fund by that name created and established in the Indenture.

"Book-Entry System" means the book-entry system maintained by the Securities Depository and described in the Indenture.

"Certificate" means a document signed by an Authorized Representative of the City attesting to or acknowledging the circumstances or other matters therein stated.

"City" means the City of Fayetteville, Arkansas, a municipality and political subdivision under the laws of the State of Arkansas.

"Code" means the Internal Revenue Code of 1986, as from time to time amended, and applicable regulations issued or proposed thereunder.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement between the City and the Trustee, dated the date of issuance and delivery of the Bonds, as originally executed and as amended from time to time in accordance with the terms thereof.

"Costs of Issuance" means all items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale and issuance of the Bonds, including, but not limited to, underwriting discounts, fees and expenses, election expenses, publication expenses, expenses of printing, reproducing, filing and recording documents, initial fees and charges of the Trustee and any Paying Agent, fees and expenses for legal, accounting and other professional services, rating fees, costs of securing any credit enhancement for the Bonds, costs of execution, transportation and safekeeping of the Bonds, and other costs, charges and fees incurred in connection with the foregoing.

"Costs of Issuance Fund" means the fund by that name created and established in the Indenture.

"Event of Default" means any event of default specified in Section 801 of the Indenture.

"Fiscal Year" means the 12-month period used, at any time, by the City for accounting purposes, which may be the calendar year.

"Fund" means a fund established by the Indenture.

"Government Securities" means direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of Treasury of the United States of America, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Holder" or "Bondholder" or "owner of the Bonds" means the registered owner of any Bond.

"Indenture" means the Trust Indenture dated as of [July 15], 2006, between the City and the Trustee, pursuant to which the Bonds are issued, and any amendments and supplements thereto.

"Investment Securities" means, if and to the extent the same are at the time legal for investment of Funds held under the Indenture:

- (a) Government Securities;
- (b) bonds, debentures, notes or other evidence of indebtedness issued or generated by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

- (1) U.S. Export-Import Bank (Eximbank) – direct obligations or fully guaranteed certificates of beneficial ownership;
- (2) Farmers Home Administration (FmHA) – certificates of beneficial ownership;
- (3) Federal Financing Bank;
- (4) Federal Housing Administration Debentures (FHA);
- (5) General Services Administration – participation certificates;
- (6) Government National Mortgage Association (GNMA or "Ginnie Mae") –
 - (a) GNMA – guaranteed mortgage-backed bonds
 - (b) GNMA – guaranteed pass-through obligations;
- (7) U.S. Maritime Administration – guaranteed Title XI financing; and
- (8) U.S. Department of Housing and Urban Development (HUD) – Project Notes; Local Authority Bonds; New Communities Debentures – U.S. government

guaranteed debentures; U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds;

(c) bonds, debentures, notes or other evidences of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

- (1) Federal Home Loan Bank System – senior debt obligations;
- (2) Federal Home Loan Mortgage Corporation (FHLMC or “Freddie Mac”) – participation certificates and senior debt obligations;
- (3) Federal National Mortgage Association (FNMA or “Fannie Mae”) – mortgage-backed securities and senior debt obligations;
- (4) Student Loan Marketing Association (SLMA or “Sallie Mae”) – senior debt obligations;
- (5) Resolution Funding Corp. (REFCOPR) obligations; and
- (6) Farm Credit System – consolidated systemwide bonds and notes;

(d) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAm-G, AAA-m or AA-m, and if rated by Moody’s rated Aaa, Aa1 or Aa2;

(e) certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral;

(f) certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF; and

(g) bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest rating categories assigned by such agencies.

“Mayor” means the person holding the office and performing the duties of the Mayor of the City.

“Original Purchaser” means the first purchaser(s) of a series of the Bonds from the City.

“Outstanding” means, as of any date of computation, Bonds theretofore or thereupon being delivered under the Indenture, except:

- (a) Bonds cancelled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation;
- (b) Bonds deemed to be paid in accordance with Article VII of the Indenture; and
- (c) Bonds in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to the Indenture.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository in the Book-Entry System, as such listing of Participants exists at the time of such reference.

“Paying Agent” means any bank or trust company named by the City as the place at which the principal of and premium, if any, and interest on the Bonds are payable.

“Person” means any natural person, firm, association, corporation, limited liability company, partnership, joint stock company, joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

“Project” means the acquisition, construction and equipping of fire station facilities [MORE SPECIFIC?].

“Project Costs” means, to the extent permitted by the Act or other applicable laws, with respect to the Project, all costs of planning, designing, purchasing, acquiring, constructing, equipping, financing and placing in operation, including obtaining governmental approvals, certificates, permits and licenses with respect thereto,

heretofore or hereafter paid or incurred by or on behalf of the City and which shall include, but shall not be limited to:

(a) preliminary investigation and development costs, engineering fees, contractors' fees, labor costs, the cost of materials, equipment, utility services and supplies, costs of obtaining permits, licenses and approvals, costs of real property, insurance premiums, legal and financing fees and costs, administrative and general costs, and all other costs properly allocable to the acquisition, construction and equipping of the Project and placing the same in operation;

(b) all costs relating to injury and damage claims arising out of the acquisition, construction or equipping of the Project;

(c) all other costs incurred in connection with, and properly allocable to, the acquisition, construction and equipping of the Project; and

(d) amounts to pay or reimburse the City or any City fund for expenses of the City incident and properly allocable to such planning, designing, purchasing, acquiring, constructing, equipping, financing and placing in operation of the Project.

"Project Fund" means the fund by that name created and established in the Indenture.

"Qualified Engineer" means an independent consulting engineer or firm of independent consulting engineers not in the regular employ of the City.

"Rating Agency" means Moody's Investors Service, Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc., or Fitch, Inc., and their respective successors and assigns. If any such corporation ceases to act as a securities rating agency, the City may appoint any nationally recognized securities rating agency as a replacement.

"Rebate Fund" means the fund by that name created and established in the Indenture.

"Record Date" means the fifteenth day of the calendar month preceding the calendar month in which an interest payment date on the Bonds occurs.

"Requisition" means a written requisition of the City, consecutively numbered, signed by an Authorized Representative including, without limitation, the following with respect to each payment requested:

(i) the name of the Person or party to whom payment is to be made and the purpose of the payment,

(ii) the amount to be paid thereunder;

(iii) that such amount has not been previously paid by the City and is justly due and owing to the Person(s) named therein as a proper payment or reimbursement of a Project Cost; and

(iv) that no Event of Default exists under the Indenture and that, to the knowledge of the Authorized Representative, no event has occurred and continues which with notice or lapse of time or both would constitute an Event of Default under the Indenture.

"Securities Depository" means The Depository Trust Company, New York, New York, or its nominee, and its successors and assigns, or any other depository institution appointed by the City or the Trustee to act as depository for the Bonds in connection with the Book-Entry System.

"State" means the State of Arkansas.

"Supplemental Indenture" means any indenture supplemental to or amendatory of the Indenture.

"Tax Regulatory Agreement" means that Tax Regulatory Agreement of the City relating to maintenance of the excludability of interest on the Bonds from gross income for federal income tax purposes, delivered in connection with the issuance of the Bonds.

"Trustee" means the banking corporation or association designated as Trustee in the Indenture, and its successor or successors as such Trustee. The original Trustee is _____.

"Trust Estate" means the property described in the granting clauses of the Indenture.

SUMMARY OF THE INDENTURE

The following statements are brief summaries of certain provisions of the Indenture. The statements do not purport to be complete, and reference is made to the Indenture, copies of which are available for examination at the offices of the [Finance Director] of the City, for a full statement thereof.

Funds. The following Funds have been established with the Trustee in connection with the Bonds:

Funds

Bond Fund

Project Fund

Cost of Issuance Fund

Rebate Fund

(a) Bond Fund. No later than the 25th day of each month, commencing [July 25th], 2006, the City shall transfer to the Trustee, for deposit to the Bond Fund, an amount equal to the sum of (i) one-sixth (1/6) of the interest on the Outstanding Bonds due on the next interest payment date, and (ii) one-twelfth (1/12) of the next scheduled principal maturity of the Outstanding Bonds. Required deposits into the Bond Fund shall be reduced by investment earnings, if any, therein and by any accrued interest deposited to the Bond Fund upon the initial sale of the Bonds. In the event there shall be a deficiency in a particular month to make the required transfers, then such deficiency shall be added to the required deposit for the next month. The Trustee shall withdraw from the Bond Fund, on the date of any principal or interest payment, an amount equal to such payment for the sole purpose of paying the same.

When the moneys held in the Bond Fund shall be and remain sufficient to pay in full the principal of and interest on all Bonds then Outstanding in accordance with the Indenture, together with the required fees and expenses to be paid or reimbursed to the Trustee and any Paying Agent, the City shall have no further obligation to make payments into such Fund.

(b) Project Fund. A portion of the proceeds of the Bonds shall be deposited in the Project Fund. See the caption "ESTIMATED SOURCES AND USES OF FUNDS" herein. Amounts in the Project Fund shall be expended only for the payment of Project Costs upon the submission of Requisitions by the City to the Trustee. The Trustee shall only make payments from the Project Fund pursuant to and in accordance with Requisitions. Within ninety (90) days following completion of the Project, the City shall deliver to the Trustee its Certificate stating that the Project is complete and the Trustee shall transfer the remaining moneys in the Project Fund (save and except moneys needed to satisfy unpaid Project Costs) to the Bond Fund for application to the retirement of the Bonds by redemption or purchase. See the caption "THE BONDS - Redemption" herein.

(c) Cost of Issuance Fund. A portion of the proceeds of the Bonds shall be deposited to the credit of the Cost of Issuance Fund. The Trustee shall pay those Costs of Issuance as directed by the City pursuant to a Certificate delivered on the date of issuance of the Bonds. After all Costs of Issuance have been paid, any remaining moneys in the Cost of Issuance Fund shall be transferred to the Bond Fund.

(d) Rebate Fund. The Trustee shall establish and maintain, separate and apart from any other Funds established and maintained under the Indenture, the Rebate Fund, which Fund is not pledged to the payment of any Bonds. Subject to transfer to the United States in payment of any arbitrage rebate due under Section 148(f) of the Code, all moneys at any time deposited in the Rebate Fund shall be held by the Trustee in trust, and neither the City nor the Owner of any Bond shall have any rights in or claim to such money. Any amounts remaining in the Rebate Fund after payment in full of the rebate amount owing to the United States, within sixty (60) days after the date on which the last is redeemed, shall be transferred to the City.

Investment of Funds. At the direction of the City or absent such direction, the Trustee shall invest moneys in Funds held by the Trustee in Investment Securities with maturity or redemption dates consistent with the times at which said moneys will be required for the purposes provided in the Indenture. Moneys in separate Funds may be commingled for the purpose of investment.

Obligations purchased as an investment of moneys in any Fund created by the Indenture shall be deemed at all times to be a part of such Fund, and any income or loss due to an investment thereof shall be charged to the respective Fund for which the investment was made except as otherwise provided in the Indenture.

Valuation of Funds. In determining the value of any Fund held by the Trustee under the Indenture, the Trustee shall credit Investment Securities at the fair market value thereof, as determined by the Trustee by any method selected by the Trustee in its reasonable discretion. No less frequently than annually, and in any event

within thirty (30) days prior to the end of each Fiscal Year, the Trustee shall determine the value of each Fund held under the Indenture and shall report such determination to the City.

The Trustee shall sell or present for redemption any Investment Securities as necessary in order to provide money for the purpose of making any payment required under the Indenture, and the Trustee shall not be liable for any loss resulting from any such sale.

Responsibility of Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it at the direction of the City.

Instruments of Further Assurance. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, ordinances, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming of the Trust Estate.

Tax Covenants. The City shall not use or permit the use of any Bond proceeds or any other funds of the City, directly or indirectly, in any manner, and will not take or permit to be taken any other action or actions which would adversely effect the exclusion of interest on any Bond from gross income for federal income tax purposes. No part of the proceeds of the Bonds shall at any time be used, directly or indirectly, to acquire securities or obligations the acquisition of which would cause any of such Bonds to be an "arbitrage bond" as defined in Sections 148(a) and (b) of the Code. The City agrees that so long as any of the Bonds remain Outstanding, it will comply with the provisions of the Tax Regulatory Agreement.

Defeasance. Any Bond shall be deemed to be paid within the meaning of the Indenture when payment of the principal of and premium, if any, and interest on such Bond (whether at maturity or upon redemption as provided in the Indenture, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment, (1) cash sufficient to make such payment or (2) Government Securities (provided that such deposit will not affect the tax-exempt status of the interest on any of the Bonds or cause any of the Bonds to be classified as "arbitrage bonds" within the meaning of Section 148(a) of the Code, as reflected in an opinion of Bond Counsel delivered to the Trustee), maturing as to principal and interest in such amounts and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee and any Paying Agent pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee and any said Paying Agent.

Events of Default. Each of the following events shall constitute and is referred to in the Indenture as an "Event of Default":

- (a) Default in the due and punctual payment of any interest on any Bond;
- (b) Default in the due and punctual payment of the principal of or premium, if any, on any Bond, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;
- (c) Default in the payment of any other amount required to be paid under the Indenture or the performance or observance of any other of the covenants, agreements or conditions contained in the Indenture, or in the Bonds issued under the Indenture, and continuance thereof for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied, shall have been given to the City by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding, unless the Trustee, or the Trustee and Holders of an aggregate principal amount of Bonds not less than the aggregate principal amount of Bonds the Holders of which requested such notice, as the case may be, shall agree in writing to an extension of such period prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Trustee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such period and is being diligently pursued;
- (d) The filing of a petition in bankruptcy by or against the City under the United States Bankruptcy Code or the commencement of a proceeding by or against the City under any other law concerning insolvency, reorganization or bankruptcy; and
- (e) If the State has limited or altered the rights of the City pursuant to the Act, as in force on the date of the Indenture, to fulfill the terms of any agreements made with the Trustee or the Bondholders or in any way impaired the rights and remedies of the Trustee or the Bondholders while any Bonds are Outstanding.

The term "default" as used in clauses (a), (b) and (c) above shall mean default by the City in the performance or observance of any of the covenants, agreements or conditions on its part contained in the Indenture, or in the Bonds Outstanding thereunder, exclusive of any period of grace required to constitute a default an "Event of Default" as described above.

Acceleration. Upon the occurrence of an Event of Default, the Trustee may, and upon the written request of the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding shall, by notice in writing delivered to the City, declare the principal of all Bonds then Outstanding, together with any premium and the interest accrued thereon, immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

Other Remedies; Rights of Bondholders. Upon the occurrence of an Event of Default, the Trustee may, as an alternative, pursue any available remedy by suit at law or in equity, including, without limitation, mandamus to enforce the payment of the principal of and premium, if any, and interest on the Bonds then Outstanding.

If an Event of Default shall have occurred, and if it shall have been requested so to do by the Holders of 51% in aggregate principal amount of Bonds Outstanding and if it shall have been indemnified as provided in the Indenture, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred upon it by the Indenture as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

No remedy by the terms of the Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given under the Indenture or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default under the Indenture, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Rights and Remedies of Bondholders. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of the Indenture or for the execution of any trust thereof or for the appointment of a receiver or any other remedy thereunder, unless a default has occurred of which the Trustee has been notified as provided in the Indenture, or of which by the Indenture it is deemed to have notice, nor unless such default shall have become an Event of Default and the Holders of not less than 51% in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers granted or to institute such action, suit, or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in the Indenture nor unless the Trustee shall thereafter fail or refuse to exercise the powers granted, or to institute such action, suit, or proceeding in its own name; and such notification, request and offer of indemnity are declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of the Indenture, and to any action or cause of action for the enforcement of the Indenture or for the appointment of a receiver or for any other remedy thereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of the Indenture by action of the Holder or Holders or to enforce any right under the Indenture except in the manner therein provided, and that all proceedings at law or in equity shall be instituted, held and maintained in the manner therein provided for the equal benefit of the Holders of all Bonds Outstanding thereunder. Nothing in the Indenture contained shall, however, affect or impair the right of any Bondholders to enforce the payment of the principal of and premium, if any, and interest on any Bonds at and after the maturity thereof, or the obligation of the City to pay the principal of and premium, if any, and interest on each of the Bonds issued under the Indenture to the respective Holders thereof at the time and place in said Bonds expressed.

Supplemental Indentures Not Requiring Consent of Bondholders. The City and the Trustee may, from time to time and at any time, without the consent of or notice to the Bondholders, enter into Supplemental Indentures as follows:

- (a) to cure any formal defect, omission, inconsistency or ambiguity in the Indenture;

(b) to grant to or confer or impose upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with the Indenture as theretofore in effect, provided that no such additional liabilities or duties shall be imposed upon the Trustee without its consent;

(c) to add to the covenants and agreements of, and limitations and restrictions upon, the City in the Indenture other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to or inconsistent with the Indenture as theretofore in effect;

(d) to confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, the Indenture, of the Trust Estate or of any other moneys, securities or funds;

(e) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended;

(f) to make such additions, deletions or modifications as may be necessary to assure compliance with Section 148(f) of the Code relating to required rebate to the United States or otherwise as may be necessary to assure exemption from federal income taxation of interest on the Bonds; or

(g) to modify, alter, amend or supplement the Indenture in any other respect which is not materially adverse to the Bondholders and which does not involve a change described in clause (a), (b), (c), (d), (e) or (f) above and which, in the judgment of the Trustee, is not to the prejudice of the Trustee.

Supplemental Indentures Requiring Consent of Bondholders. Subject to the terms and provisions contained in this paragraph, and not otherwise, the Holders of not less than 2/3 in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in the Indenture to the contrary notwithstanding, to consent to and approve the execution by the City and the Trustee of such indenture or indentures supplemental to the Indenture as shall be deemed necessary and desirable by the City for the purpose of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in the Indenture or in any Supplemental Indenture; provided, however, that nothing contained in the Indenture shall permit or be construed as permitting (a) an extension of the maturity (or mandatory redemption date) of the principal of or the interest on any Bond issued thereunder, or (b) a reduction in the principal amount of or redemption premium or rate of interest on any Bond issued thereunder, or (c) the creation of any lien on the Trust Estate or any part thereof, except as expressly permitted in the Indenture, or (d) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Indenture, or (f) depriving the Holder of any Bond then Outstanding of the lien created on the Trust Estate.

If, at any time the City shall request the Trustee to enter into any Supplemental Indenture for any of the purposes described above, the Trustee shall, at the expense of the City, cause notice of the proposed execution of such Supplemental Indenture to be mailed by first class mail to each registered owner of the Bonds. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by Bondholders. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail such notice, and any such failure shall not affect the validity of such Supplemental Indenture when consented to and approved as provided above. If the Holders of not less than 2/3 in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

SUMMARY OF THE CONTINUING DISCLOSURE AGREEMENT

The City has entered into an undertaking in the form of the Continuing Disclosure Agreement as required by the Indenture for the benefit of the Beneficial Owners of the Bonds to cause certain financial information to be sent to certain information repositories annually and to cause notice to be sent to such information repositories of certain specified events, pursuant to the requirements of Section (b)(5)(i) of Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (the "Rule"). The City has not failed to comply with any previous undertaking pursuant to the Rule.

The Continuing Disclosure Agreement contains the following covenants and provisions:

(a) The City shall, not later than August 1 of each year, commencing August 1, 2007, provide to each Repository and the Trustee its Annual Financial Information consistent with the requirements of subsection (d) below.

(b) If, on the date specified in subsection (a) above for providing the Annual Financial Information to Repositories, the Trustee has not received a copy of the Annual Financial Information, the Trustee shall contact the Disclosure Representative to determine if the City is in compliance with subsection (a).

(c) If the Trustee is unable to verify that the Annual Financial Information has been provided to the Repositories by the date required within subsection (a), the Trustee shall file a notice to such effect with the Repositories and the MSRB.

(d) The City's Annual Financial Information shall contain or incorporate by reference the following:

(i) [TO BE DETERMINED];

(ii) The City's audited financial statements for the prior Fiscal Year, prepared in accordance with accounting principles generally accepted in the United States ("GAAP") as such principles are modified by the governmental accounting standards promulgated by the Government Accounting Standards Board ("GASB") and by mandated principles of the State of Arkansas, if any, as in effect from time to time, which financial statements have been audited by such auditor as shall then be required or permitted by the laws of the State of Arkansas. If the City's audited financial statements are not available by the time its Annual Financial Information is required to be filed pursuant to subsection (a) above, the Annual Financial Information shall contain the unaudited financial statements of the City, and the audited financial statements shall be filed in the same manner as the Annual Financial Information when they become available.

(e) The City has agreed to instruct the Trustee to deliver to each National Repository, or the MSRB and the Arkansas State Repository, notice of the occurrence of any of the following Specified Events, if deemed material:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults;
- (iii) Unscheduled draws on any debt service reserve reflecting financial difficulties;
- (iv) Unscheduled draws on any credit enhancement reflecting financial difficulties;
- (v) Substitution of any credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (vii) Modifications to rights of Bondowners;
- (viii) Bond calls;
- (ix) Defeasances;
- (x) Release, substitution or sale of property securing payment of the Bonds; or
- (xi) Rating changes.

(f) The City has agreed that the foregoing undertakings shall be for the benefit of the Beneficial Owners of the Bonds, and shall be enforceable by any Beneficial Owner of the Bonds in an action for specific performance against the City.

(g) The continuing obligation of the City to provide Annual Financial Information and notice of the occurrence of Specified Events, if material, will terminate if the City is no longer an "obligated person" within the meaning of the Rule or upon the maturity, defeasance, prior redemption or payment in full of the Bonds. The City and the Trustee may amend the Continuing Disclosure Agreement, and any provision of the Continuing Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel, reasonably acceptable to each of the City and the Trustee, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings under the Continuing Disclosure Agreement to violate the Rule, taking into account any subsequent change in or official interpretation of the Rule.

(h) The following terms used under this caption shall have the meanings set forth below:

"Annual Financial Information" means the annual financial information to be provided by the City of the type described in the Continuing Disclosure Agreement.

"Arkansas State Repository" means any public or private repository or entity as may be designated by the State of Arkansas as a state repository for purposes of the Rule and recognized as such by the SEC. As of the date of the Continuing Disclosure Agreement, there is no Arkansas State Repository.

"Beneficial Owner" means any Person which has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including Persons holding Bonds through nominees or depositories.

"Disclosure Representative" means the City's [Finance Director] or his or her designee, or such other officer or employee as the City shall designate in writing to the Trustee from time to time.

"Fiscal Year" means the 12-month period used, at any time, by the City for accounting purposes, which may be the calendar year. The City's fiscal year presently ends on December 31.

"MSRB" means the Municipal Securities Rulemaking Board.

"National Repository" means any nationally recognized municipal securities information repository for purposes of the Rule.

"Participating Underwriter" means Crews & Associates, Inc.

"Repository" means each National Repository and the Arkansas State Repository.

"Specified Events" means each of the events with respect to the Bonds listed in subsection (e) above.

(i) A failure by the City to comply with the provisions of the Continuing Disclosure Agreement will not constitute an Event of Default under the Indenture, and the sole remedy in such an event shall be an action to compel specific performance. Nevertheless, such a failure to comply must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds.

UNDERWRITING

Under a bond purchase agreement entered into by and among the City and Crews & Associates, Inc. (the "Underwriter"), the Bonds are being purchased at a purchase price of \$_____ (representing the stated principal amount of the Bonds [plus][less] a net reoffering [premium][discount] of \$_____ and less an underwriting discount of \$_____) plus accrued interest from [July 15], 2006 to the date of delivery of the Bonds. The bond purchase agreement provides that the Underwriter will purchase all of the Bonds if any are purchased. The obligation of the Underwriter to accept delivery of the Bonds is subject to various conditions contained in the bond purchase agreement, including the absence of pending or threatened litigation questioning the validity of the Bonds or any proceedings in connection with the issuance thereof, and the absence of material adverse changes in the financial condition of the City.

The Underwriter intends to offer the Bonds to the public initially at the offering prices as set forth on the cover page of this Official Statement, which offering prices (or bond yields establishing such offering prices) may subsequently change without any requirement of prior notice. The Underwriter reserves the right to join with dealers and other underwriters in offering the Bonds to the public, and may offer the Bonds to such dealers and other underwriters at a price below the public offering price.

The City has agreed to indemnify the Underwriter against certain civil liabilities in connection with the offering and sale of the Bonds, including certain liabilities under federal securities laws.

TAX MATTERS

Federal Income Taxes. In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the Bonds is excluded from the gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Bonds. Failure to comply with such requirements could cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The City has covenanted to comply

with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Bonds.

Notwithstanding Bond Counsel's opinion that interest on the Bonds is not a specific preference item for purposes of the federal alternative minimum tax, such interest will be included in adjusted current earnings of certain corporations, and such corporations are required to include in the calculation of alternative minimum taxable income 75% of the excess of such corporation's adjusted current earnings over their alternative minimum taxable income (determined without regard to such adjustment and prior to reduction for certain net operating losses).

The City has not designated the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

The accrual or receipt of interest on the Bonds may otherwise affect the federal income tax liability of the owners of the Bonds. The extent of these other tax consequences will depend upon such owner's particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Bonds, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the Bonds.

Changes in Federal Tax Law. From time to time, there are legislative proposals in the Congress that, if enacted, could alter or amend the federal tax matters referred to above or adversely affect the market value of the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted it would apply to bonds issued prior to enactment. Purchasers of the Bonds should consult their tax advisors regarding any pending or proposed tax legislation. The opinions expressed by Bond Counsel are based upon existing legislation as of the date of issuance and delivery of the Bonds, and Bond Counsel has expressed no opinion as of any date subsequent thereto or with respect to any pending legislation.

Original Issue Discount. The Bonds maturing in _____ (the "Discount Bonds") are being sold at an original issue discount. The difference between the initial public offering prices of such Discount Bonds and their stated amounts to be paid at maturity constitutes original issue discount treated in the same manner for federal income tax purposes as interest, as described above.

The amount of original issue discount which is treated as having accrued with respect to a Discount Bond is added to the cost basis of the owner in determining, for federal income tax purposes, gain or loss upon disposition of such Discount Bond (including its sale, redemption or payment at maturity). Amounts received upon disposition of such Discount Bond which are attributable to accrued original issue discount will be treated as tax-exempt interest, rather than as taxable gain, for federal income tax purposes.

Original issue discount is treated as compounding semiannually, at a rate determined by reference to the yield to maturity of each individual Discount Bond, on days which are determined by reference to the maturity date of such Discount Bond. The amount treated as original issue discount on such Discount Bond for a particular semiannual accrual period is equal to the product of (i) the yield to maturity for such Discount Bond (determined by compounding at the close of each accrual period) and (ii) the amount which would have been the tax basis of such Discount Bond at the beginning of any particular accrual period if held by the original purchaser, less the amount of any interest payable for such Discount Bond during the accrual period. The tax basis is determined by adding to the initial public offering price on such Discount Bond the sum of the amounts which have been treated as original issue discount for such purposes during all prior periods. If such Discount Bond is sold between semiannual compounding dates, original issue discount which would have been accrued for that semiannual compounding period for federal income tax purposes is to be apportioned in equal amounts among the days in such compounding period.

Owners of Discount Bonds should consult their tax advisors with respect to the determination and treatment of original issue discount accrued as of any date and with respect to the state and local tax consequences of owning a Discount Bond.

Original Issue Premium. The Bonds maturing in _____ (the "Premium Bonds") are being sold at a premium. An amount equal to the excess of the issue price of a Premium Bond over its stated redemption price at maturity constitutes premium on such Premium Bond. An initial purchaser of a Premium Bond must amortize any premium over such Premium Bond's term using constant yield principles, based on the purchaser's yield to maturity

(or, in the case of Premium Bonds callable prior to their maturity, by amortizing the premium to the call date, based on the purchaser's yield to the call date and giving effect to the call premium). As premium is amortized, the amount of the amortization offsets a corresponding amount of interest for the period and the purchaser's basis in such Premium Bond is reduced by a corresponding amount resulting in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes upon a sale or disposition of such Premium Bond prior to its maturity. Even though the purchaser's basis may be reduced, no federal income tax deduction is allowed. Purchasers of the Premium Bonds should consult their tax advisors with respect to the determination and treatment of premium for federal income tax purposes and with respect to the state and local tax consequences of owning a Premium Bond.

State Taxes. Bond Counsel is of the opinion that, under existing laws, regulations, rulings and judicial decisions, interest on the Bonds is exempt from all state, county and municipal taxes in the State of Arkansas.

LEGAL MATTERS

Legal Opinions. Legal matters incident to the authorization and issuance of the Bonds are subject to the unqualified approving opinion of Kutak Rock LLP, Little Rock, Arkansas, Bond Counsel, a copy of whose approving opinion will be delivered with the Bonds and a form of which is attached hereto as Appendix A. Certain legal matters will be passed upon for the City by its counsel, Kit Williams, Esq., City Attorney.

Litigation. There is no litigation pending seeking to restrain or enjoin the issuance or delivery of the Bonds or questioning or affecting the legality of the Bonds or the proceedings and authority under which the Bonds are to be issued, or questioning the right of the City to issue the Bonds. There is no action, suit or proceeding known to be pending or threatened, restraining or enjoining the City in any way which could have a material adverse effect on the City's ability to pay debt service with respect to the Bonds.

FINANCIAL STATEMENTS

The [general purpose financial statements] of the City at December 31, 2005 and for the year then ended, included herein as Appendix A, have been audited by BKD, LLP, independent certified public accountants, as set forth in their report dated _____, 2006, which report is also included in Appendix A. The notes set forth in Appendix A are an integral part of the financial statements, and the statements and notes should be read in their entirety. Additional financial information concerning the City may be obtained from the City's Finance and Internal Services Director, City of Fayetteville, City Administration Building, 113 West Mountain, Fayetteville, Arkansas 72701.

MISCELLANEOUS

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. This Official Statement is not to be construed as a contract or agreement between the City and the purchasers or owners of any of the Bonds.

ACCURACY AND COMPLETENESS OF OFFICIAL STATEMENT

The information contained in this Official Statement has been taken from sources considered to be reliable, but is not guaranteed. To the best of the knowledge of the City, this Official Statement does not include any untrue statement of a material fact, nor does it omit the statement of any material fact required to be stated herein, or necessary to make the statements herein, in light of the circumstances under which they were made, not misleading.

The execution and delivery of this Official Statement has been duly authorized by the City of Fayetteville, Arkansas.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

APPENDIX B

Proposed Form of Bond Counsel Opinion

Upon delivery of the Bonds in definitive form, Kutak Rock LLP, Little Rock, Arkansas, proposes to deliver its approving opinion in substantially the following form:

July __, 2006

City of Fayetteville, Arkansas
Fayetteville, Arkansas

_____, as Trustee
_____, Arkansas

Crews & Associates, Inc.
Little Rock, Arkansas

[\$3,165,000]*
City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006A

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance and sale by the City of Fayetteville, Arkansas (the "City"), a political subdivision of the State of Arkansas, of its [\$3,165,000]* General Obligation Bonds, Series 2006A (the "Bonds").

The Bonds are being issued pursuant to the provisions of the Constitution and laws of the State of Arkansas, including, particularly, Amendment 78 and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (Supp. 2005) §§14-78-101 *et seq.* (as from time to time amended, the "Act"), pursuant to Ordinance No. ____ of the City, duly adopted and approved on June __, 2006 (the "Authorizing Ordinance"), and pursuant to a Trust Indenture dated as of [July 15], 2006 (the "Indenture"), by and between the City and _____, as trustee (the "Trustee"). Reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Holders of the Bonds, and the terms upon which the Bonds are issued and secured.

Reference is made to an opinion of even date herewith of Kit Williams, Esq., City Attorney, a copy of which is on file with the Trustee, with respect, among other matters, to the status and valid existence of the City, the power of the City to adopt the Authorizing Ordinance and to enter into and perform its obligations under the Indenture, the valid adoption of the Authorizing Ordinance, and the due authorization, execution and delivery of the Indenture by the City, and with respect to the Indenture being enforceable upon the City.

We have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Authorizing Ordinance and the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

* Preliminary; subject to change.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The City is duly created and validly existing as a municipal corporation of the State of Arkansas. Pursuant to the Constitution and laws of the State of Arkansas, including, particularly, Amendment 78 and the Act, the City is empowered to adopt the Authorizing Ordinance, to execute and deliver the Indenture, to perform the agreements on its part contained therein, and to issue the Bonds.
2. The Authorizing Ordinance has been duly adopted by the City and constitutes a valid and binding obligation of the City enforceable upon the City in accordance with its terms.
3. The Indenture has been duly authorized, executed and delivered by the City and is a valid and binding obligation of the City enforceable upon the City in accordance with its terms.
4. The Bonds have been validly authorized, executed, issued and delivered by the City and represent valid and binding general obligations of the City. The total annual principal and interest payments on the Bonds in each fiscal year of the City shall be charged against and paid from the general revenues of the City for such fiscal year, which may include road fund revenues.
5. Interest on the Bonds is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Internal Revenue Code of 1986, as amended, that must be met subsequent to the issuance of the Bonds. Failure to comply with such requirements could cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The City has covenanted to comply with such requirements. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.
6. The interest on the Bonds is exempt from all state, county and municipal taxes in the State of Arkansas.
7. The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended, in connection with the offer and sale of the Bonds.

It is to be understood that the rights of the registered owners of the Bonds and the enforceability of the Bonds, the Authorizing Ordinance and the Indenture may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

C. I. New Business

Recognition of Local Redevelopment Authority (LRA)
Handed out at the City Council Meeting 6/6/06

BRAC

Base Realignment and Closure

Leroy R. Pond U.S. Army Reserve Center
1616 N Woolsey
Fayetteville, AR

LRA

Local Redevelopment Authority

☐ Committee Responsible for Creating
Redevelopment/Reuse Plan for
Reserve Center

☐ Membership

■ Ray Boudreaux, City of Fayetteville

■ Steve Rust, Fayetteville Economic
Development Commission

■ Susan B. Thomas, City of Fayetteville

Property Disposal Alternatives (BRRM p.65)

☐ Disposal of Property for Use by Homeless

☐ Public Benefit Conveyance

- negotiated sale, education, public health, parks and recreation, self-help housing, historic monument, correctional facilities, law enforcement, emergency management response (including fire), port facility, wildlife conservation, public airport, highway, widening of public roads, power transmission lines,

☐ Conservation Conveyances

Property Disposal Alternatives (BRRM p.65) -- cont'd

☐ Transfer Authority in Connection with Payment of Environmental Remediation Costs

☐ Public Sale

☐ Economic Development Conveyance

- Benefits of sale used for:

- ☐ Road construction, public buildings, transportation management facilities, storm and sanitary sewer construction, police and fire protection facilities and other public facilities, utility construction, building rehabilitation, historic property preservation, pollution prevention equipment or facilities, demolition, disposal of hazardous materials generated by demolition, landscaping, grading, and other site or public improvements.

Contact Information

ERA: Susan Thomas, Ph.D.
113 W. Mountain
Fayetteville, AR 72703
479-575-8330
stthomas@ci.fayetteville.ar.us

Department of Defense Office of Economic Adjustment
www.oea.gov

Base Redevelopment and Realignment Manual
www.XXXXXXX.gov

Public Benefit Program	Sponsoring Agency	Discount	Use Restriction
Negotiated Sale	Military Services Facilities Negotiation	0%	No excess profits allowed
Education	U.S. Department of Education	up to 100%	Based upon approved plan for educational use
Public Health	U.S. Department of Health and Human Services	up to 100%	Based on approved plan for public health use
Park and Recreation	U.S. Department of the Interior, National Park Service	up to 100%	Park or recreation area use
Self Help Housing	U.S. Department of Housing and Urban Development	up to 75%	Self help housing only
Historic Monument	U.S. Department of the Interior, National Park Service	100%	Historic Monument: Any profits from use are to be used for preservation
Correctional	U.S. Department of Justice, Attorney General	100%	Correctional use
Law Enforcement	U.S. Department of Justice, Attorney General	100%	Law Enforcement use
Emergency Management Response	Federal Emergency Management Agency	100%	Emergency Management Response
Port Facility	U.S. Department of Transportation, Maritime Administration	100%	Development and operation of a Port
Wildlife Conservation	U.S. Department of the Interior, Fish and Wildlife Service	100%	Wildlife Conservation Use
Public Airport	U.S. Department of Transportation, Federal Aviation Administration	100%	Development, improvement, operation, or maintenance of a public airport
Highway	U.S. Department of Transportation, Federal Highway Administration	100%	Highway use related to interstate highway network
Widening Public Roads	Military Services Facilities Negotiation	up to 100%	Highway use related to interstate highway network
Power Transmission Lines	Military Services Facilities Negotiation	0%	Public or cooperative power project use

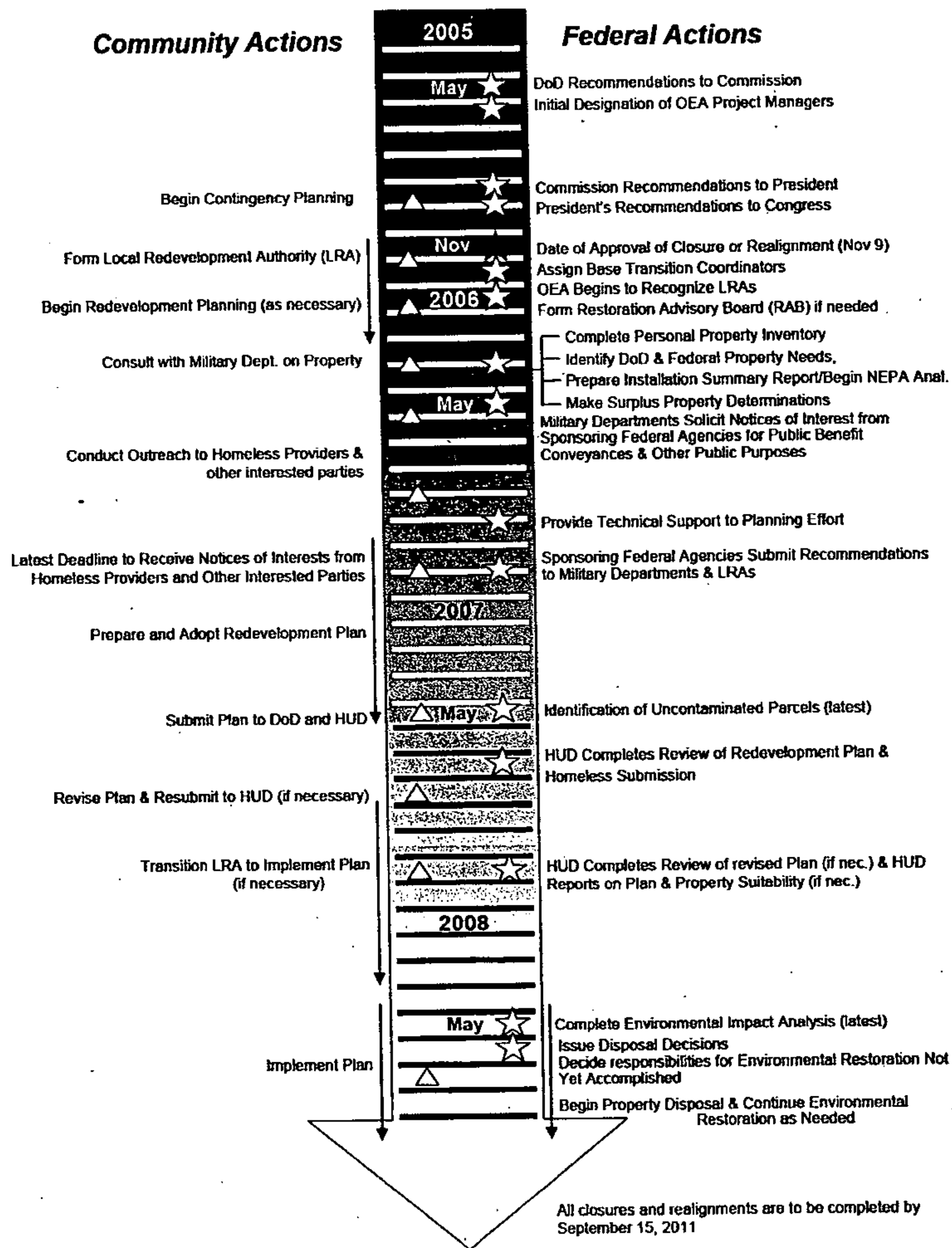


Figure 2
Notional Disposal and Redevelopment Process

Crystal Springs Development Comments and Concerns

6/6/06 C

The Bird Haven and Gooseberry Lane residences requested that Mr. Jordan and Mrs. Lucas appeal the decision by planning commission which allows the Crystal Springs Subdivision to proceed. There are traffic, environmental, and safety issues that were not adequately addressed.

We had a neighborhood meeting, June 1, with council members Mr. Jordan and Mrs. Lucas, and the developer Mr. Edwards. We want you to rescind the current sub-development plan approved by the planning commission and approve the changes agreed to by the neighborhood and the developer Mr. Edwards.

These are comments and expressions I have received at and after the meeting as part of the record and for you to know what comments and concerns were expressed.

1. Have the traffic flow east and west out of this sub-division and not through the Bird Haven Addition.
2. Has an environmental impact study been done for this development and what is the result? There is a spring and wetland area in the middle of the field where this subdivision is being built.
3. Consider safety issues rather than quick development.
4. Reduce number of lots by increasing the size of lots.
5. Build bridge first. Open streets to east and west of development and do not open Raven and Woodlark Lane
6. Route traffic to Deane Solomon, Salem, Ruppel Road and 112.
7. What guarantees do the current residences have that no houses will be built before bridge is built.

Concerns:

1. Raven and Woodlark Lane are too short and cannot support the traffic because of the volume and weight.
2. No safety for residents in neighborhood
3. Crime
4. Speed tables (a joke)

The real issues and facts are the following:

1. We have a quite neighborhood with many walkers. We do not have a city park or any bicycle trails or any sidewalks to walk on. Therefore, our residents, adults and children, must walk, ride and play in our streets.
2. Bring the traffic out through Bird Haven is a safety issue and the planning and street staffers recognized this problem somewhat and is requiring (the stupid) speed tables to be installed.
3. We want you to know the magnitude of the traffic problem. City staffers seem not to be aware of the volume of traffic.
 - A. Crystal Springs Development - 273 homes – with approximately 2730 vehicles per day (this is by the city's methods of estimating traffic – 1000 vehicles per 100 residences)
 - B. Bird Haven Addition has 102 residences – 1020 vehicles per day
 - C. Total Vehicles (Bird Haven and Crystal Springs combined) – 3750 vehicles per day coming through Bird Haven Addition.
 - D. There is approximately 2500 existing residence that is currently using Mount Comfort. – 25,000 vehicles per day. You may not believe that Mount comfort has this volume of traffic. However, I took a random traffic count on Mount Comfort. Here are the results of the counts.

Tuesday May 2, 2006 between 11:00 & 12:00 AM– 520 cars per hour – averages 6.9 seconds per car

Tuesday May 2, 2006 between 5:30 & 6:30 PM – 1308 cars per hour – averages 2.75 seconds per car

Wednesday May 3, 2006 between 7:00 & 8:00 AM – 1408 cars per hour – averages 2.5 seconds per car

Friday May 5, 2006 between 9:00 & 10:00 AM – 600 cars per hour – averages 6 seconds per car

It is amazing what I discovered. If you take lowest count 520 vehicles per hour and the highest count 1408 vehicles per hour and you averages them 924 vehicles per hour and then multiplied by 24 hours per day. We get 23,136 vehicles per day. Which is within 10 per cent of the estimated count of 25,000 vehicles per day. This is an average of 3.45 seconds per vehicles. Which is not much time to pull across a lane of traffic while turning left. We have Bird Haven residents waiting between 5 & 10 minutes to get onto Mount Comfort now. We need a traffic light now for accessing Mount Comfort.

This is the volume of traffic today. However, there are 14 to 18 subdivisions that have been approved out Mount Comfort that will add additional 5,000 residences and 50,000 more vehicles to this farm road. There will be a total of 75,000 vehicles on Mount Comfort 1.15 second per vehicle. (This is an average per day – during the high volume traffic time it will be approximately 0.8 second per vehicle).

A person living in Bird Haven, Crofton Manor or on Gooseberry Lane cannot safely turn out onto Mount Comfort. People living on Mount Comfort between Deane Solomon and Salem have worse problems. If it were not for a few good Samaritans, the 100 residences of the Bird Haven Addition would not get access to Mount Comfort at this time. Think what it will be when you add the 274 residences and the 2740 vehicles per day from Crystal Springs.

I am a Fayetteville School Bus driver and I have to deal with the traffic problems each day. In May I saw traffic at 7:50 AM at a standstill and backed up to Raven waiting to get onto I540. Another morning Mount Comfort was completely shutdown because a patrol car had stopped 100 feet north of Mount Comfort on Salem. It is not unusual for 20 vehicles or more to be backed up on Salem Road trying to get onto Mount Comfort.

A stalled vehicle on Mount Comfort between Deane Solomon and Salem and between 6:45 and 8:15 AM will totally shut down the traffic on Mount Comfort. When the traffic stops during this time, you will have a difficult time getting a wrecker to the vehicle or any emergency vehicles into the area.

I will stop with the numbers and traffic issues. The traffic is a very obvious problem and I think it is to the city staffers and planning committee. However, I think they have their own agenda when it comes to subdivision developments and street layouts and that agenda is not good for the city and its citizens.

I want to address the changes that were discussed at the neighbor meeting and what the residents want changed.

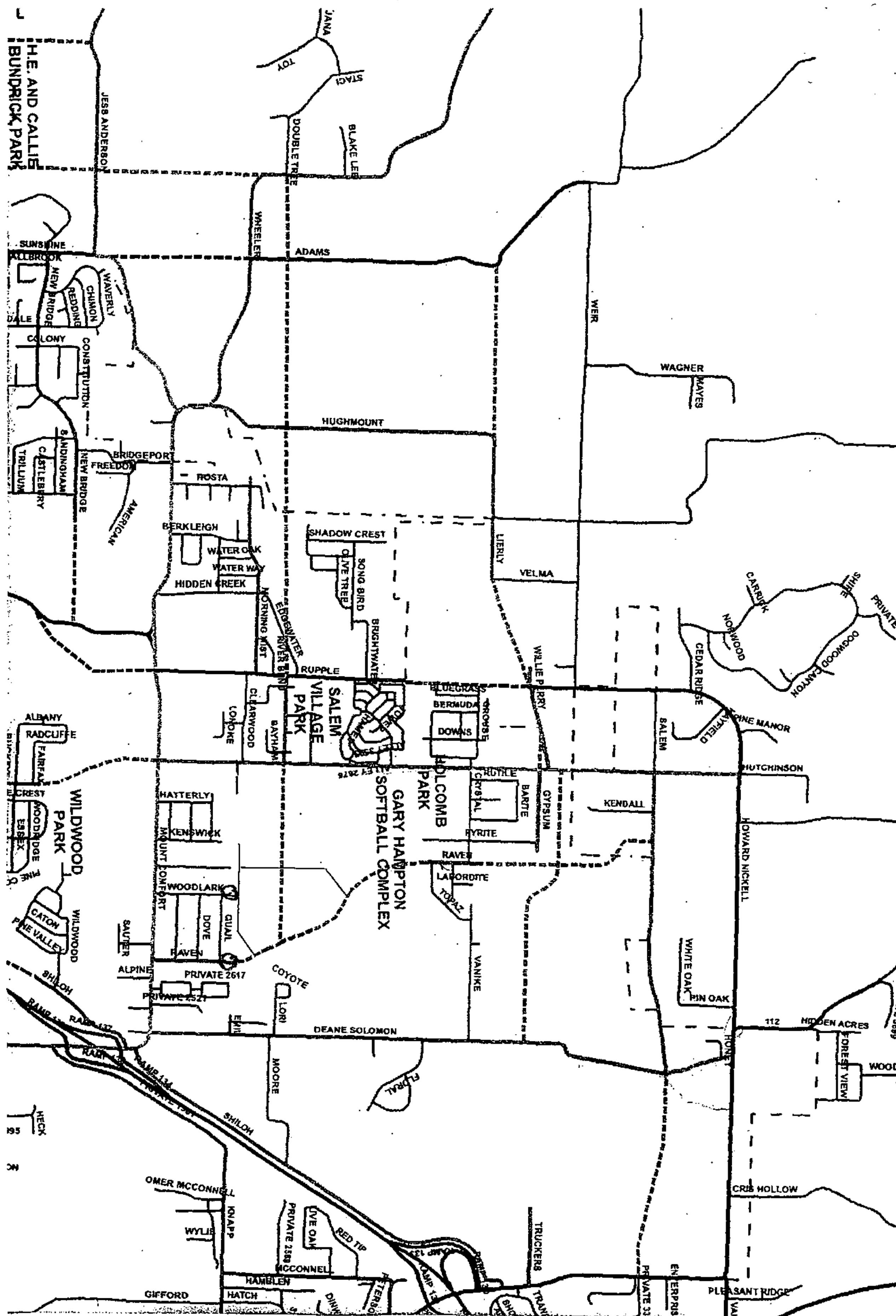
The developer told us he would put in the bridge across the Clabber Creek first and leave the Raven and Woodlark Lane stub outs closed. Keeping the Raven and Woodlark Lane stub outs closed, the traffic would be directed north from the Crystal Springs Subdivision. Then as the subdivision became fully populated he would open up the Raven and Woodlark Lane stub outs.

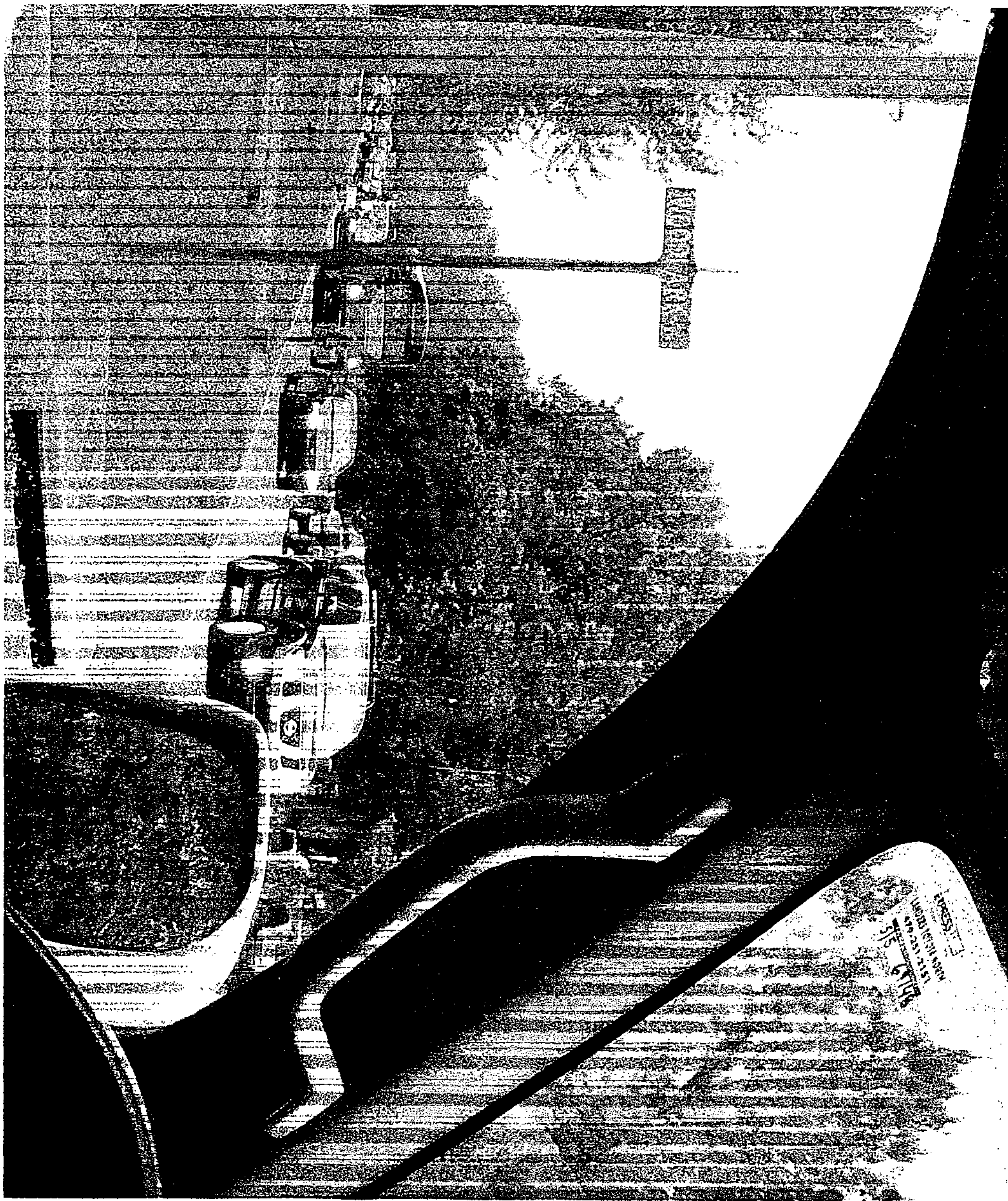
The Bird Haven residents want the Raven and Woodlark stub outs to remain closed until Mount Comfort is completely up graded to handle the traffic. In addition, we want a traffic light installed now so that the Bird Haven residents can safely turn onto Mount Comfort before we have a fatality. We want some east west exits from the Crystal Springs Subdivision.

We, also, want the water and sewer services reviewed. There are 5,000 new homes are scheduled to be built and we do not see any new water lines being installed and water towers being constructed on the West Side of town. Water lines and water towers must be in place for adequate water pressure and fire protection.

One of your primary responsibilities as an elected official is to provide safety for the citizens of Fayetteville. The traffic coming through the Bird Haven addition and turning onto Mount Comfort are safety hazards both the residents and to the drivers.

I want to thank in advance for taking your oath seriously and doing the right thing. The right thing would be to rescind the current development plan for the Crystal Springs Subdivision because of the safety issues. Approve the plan worked out by the developer Mr. Edwards and residents of the neighborhoods involved. In addition, doing the right thing would be to approve the installation of a traffic light now on Mount Comfort at Raven or Woodlark Lane so the residents of Bird Haven can safely turn onto Mount Comfort. Also, approve leaving Raven and Woodlark Lane streets closed until Mount Comfort is completely up graded.





Handed out at the City Council
meeting 6/6/06, New Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AIRPORT STAFF TO APPLY FOR AND ACCEPT TWO (2) SAAG GRANTS IN THE AMOUNT OF \$250,000.00 EACH FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND A PORTION OF THE COST TO CONSTRUCT TWO (2) CORPORATE HANGARS AT THE FAYETTEVILLE MUNICIPAL AIRPORT; APPROVING THE FINANCING PLAN TO COVER THE CITY'S MATCH OF \$700,000.00; AND AUTHORIZING THE MAYOR TO IMPLEMENT THE NECESSARY BUDGET ADJUSTMENTS TO EFFECTUATE THIS RESOLUTION.

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 Airport staff to apply for and accept Two (2) SAAG grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two (2) corporate hangars at the Fayetteville Municipal Airport.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the Financing Plan to cover the City's match of \$700,000.00, with repayment over 15 years at a 5% annual interest rate on the declining balance.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to implement the necessary budget adjustments to effectuate this Resolution.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By _____

DAN COODY, Mayor

ATTEST:

By _____

SONDRA SMITH, City Clerk

ALDERMAN AGENDA REQUEST FORM

*Added to the Consent Agenda
at the 6/6/06 City Council Meeting*

FOR: COUNCIL MEETING OF JUNE 6, 2006

FROM: ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

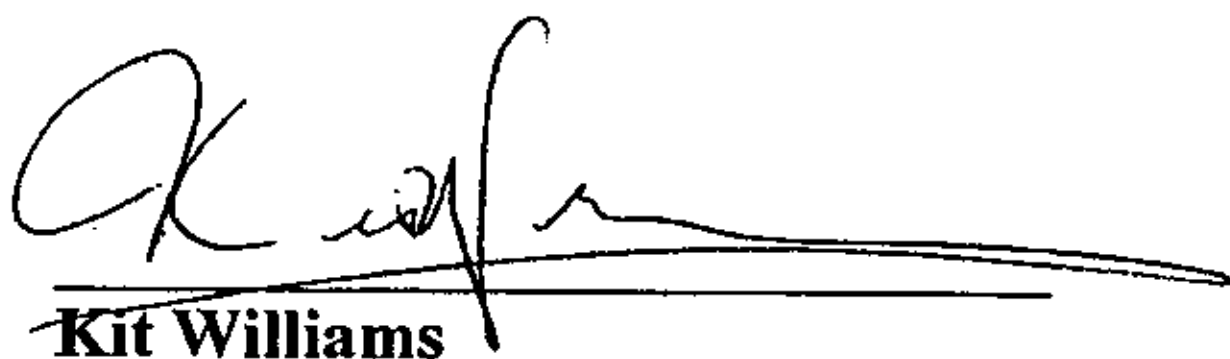
A Resolution In Support Of Local Television Cable Franchising Authority And In Opposition
To Federal Legislation Reducing Local Authority

APPROVED FOR AGENDA:


Brenda Thiel

Alderman

6/6/06
Date


Kit Williams

City Attorney (as to form)

06-06-06
Date

RESOLUTION NO. _____

**A RESOLUTION IN SUPPORT OF LOCAL TELEVISION
CABLE FRANCHISING AUTHORITY AND IN OPPOSITION
TO FEDERAL LEGISLATION REDUCING LOCAL AUTHORITY**

WHEREAS, bills have been introduced into the 109th Congress of the United States that would prevent the City of Fayetteville from requiring providers of cable and video services that use City rights-of-way from having to obtain a franchise from the City and thus prevent the City from meeting local community needs; and

WHEREAS, under the guise of public choice and increased competition, these bills would nationalize franchising, setting a course toward preemption of all local authority over the provision of cable and video services within the community; and

WHEREAS, these bills would reduce or eliminate financial and technical support that is critical to the City of Fayetteville for the creation of local programs through public, educational and governmental access; and

WHEREAS, these bills eliminate any build-out requirements for any video service provider, thereby allowing providers to discriminate based on the wealth of the local neighborhoods they choose to serve; and

WHEREAS, these bills would deprive Fayetteville residents of the ability to address issues locally by removing to the state and federal government all customer service issues, transferring local enforcement of franchise issues to the federal bureaucracies and courts; and

WHEREAS, the City of Fayetteville supports competition, diversity and localism in media with a level playing field where everyone plays by the same rules to accomplish those goals; and

WHEREAS, local cable franchising allows for cities and towns around the country to exercise local authority, decision-making and consumer protection, to establish and support commercial-free community television, and to receive franchise fees that private companies pay as compensation for their use of local public rights-of-way; and

WHEREAS, under existing law telephone companies are free to enter the video market today as common carriers, as open video service providers, or under the same local franchising framework as cable companies; and

WHEREAS, the City objects to legislation that creates a subsidy to the telecommunications industry at the expense of the City's taxpayers;

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 urges the Arkansas Congressional Delegation and all other members of Congress to oppose Senate Bill S. 2686 and House Bill H.R. 5252.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
June 6, 2006**

A meeting of the Fayetteville City Council will be held on June 6, 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**

**Commemoration of the Fayetteville Public Library's 90th birthday - Louise Schaper,
Library Director.**

A. CONSENT:

- 1. Approval of the April 18, 2006, May 2, 2006 and May 16, 2006 City Council meetings minutes.**
- 2. Community Development Block Grant:** A resolution approving the Community Development Block Grant (CDBG) Agreement for 2006 in the amount of \$653,244.00.
- 3. APAC-Arkansas, Inc. Change Order No. 2:** A resolution approving Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$277,505.60; and approving a Budget Adjustment in the amount of \$185,605.00 recognizing restored grant revenues.
- 4. McClelland Consulting Engineers, Inc:** A resolution approving a three-year contract with McClelland Consulting Engineers, Inc. for airport engineering services.

5. **Washington Regional Medical Center's Performance Bond:** A resolution to approve Washington Regional Medical Center's Performance Bond and Promissory Note to guarantee payment of an offsite improvement (traffic light) in the amount of \$110,000.00.
6. **Score Uniforms - Soccer Uniform Purchase:** A resolution awarding Bid #06-05 and approving the purchase of youth soccer uniforms from Score Uniforms in an amount not to exceed \$22,394.00 for the fall 2006 season and \$4,000.00 for spring 2007 season.
7. **RJN Group, Inc. Amendment No. 2:** A resolution approving contract Amendment #2 to the June 15, 2004 agreement for professional engineering services with RJN Group, Inc. in the amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington Sewer Basin; and approving a five percent (5%) contingency in the amount of \$6,200.00.
8. **AHTD Widening of Hwy 16/Hwy 71B East Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B East to Stone Bridge Road.
9. **AHTD Widening of Hwy 112 from Hwy 112 Spur North Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 112 from Highway 112 Spur North.
10. **Wheeler Lumber, LLC:** A resolution approving the award of Bid #06-37 for the construction and delivery of the Crown Trail Bridge to Wheeler Lumber, LLC in the amount of \$27,423.00.
11. **The Heights at Park West Master Street Plan Amendments:** A resolution for PPL 06-1998 amending the Master Street Plan, realigning Deane Solomon Collector Street to the east and reclassifying the existing Deane Solomon Road to a local street; realigning the planned Collector Park West Boulevard south of the current alignment as described and depicted in the attached maps.
12. **2006 Justice Assistance Grant:** A resolution authorizing the Fayetteville Police Department to accept a continuation of the Justice Assistance Grant in the amount of \$181,426.00 to assist in funding the Fourth Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$31,426.00.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the May 16, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **Recognition of Local Redevelopment Authority (LRA):** A resolution recognizing the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center (USARC), including outreach to homeless providers and to other interested parties.
2. **Improvement District No. 14 Clearwood Crossing Dissolution:** An ordinance to repeal Ordinance No. 4843 and dissolve the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas.
3. **East Square Redevelopment PZD Appeal (C-PZD 05-1610):** A resolution to grant the appeal of East Square Developers to add two floors of Hotel Rooms as a minor modification of C-PZD 05-1610.
4. **Crystal Springs IV Appeal:** Appeal the approval of the PPL 06-1977 Preliminary Plat Crystal Springs IV for property located north of Mt. Comfort Road, at the end of Raven Lane.
5. **Arkansas Department of Aeronautics SAAG Grants:** A resolution authorizing airport staff to apply for and accept two (2) SAAG Grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two (2) corporate hangars at the Fayetteville Municipal Airport; approving the financing plan to cover the city's match of \$700,000.00; and approving budget adjustments recognizing the grant revenues.
6. **VAC 06-2045 Bellafont II:** An ordinance approving VAC 06-2045 submitted by H2 Engineering, Inc. for property located northwest of Joyce Boulevard and Vantage Drive, vacating a portion of the utility easement located within the subject property.
7. **RZN 06-2026 Lafayette and Mission:** An ordinance rezoning that property described in rezoning petition RZN 06-2026 for 11 non-contiguous parcels, located north of Lafayette Street and east of Mission Boulevard, from RMF-24, Residential Multi-Family, 24 units per acre to RMF-6, Residential Multi-Family, 6 units per acre.
8. **BMW Investments, LLC Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in the amount of \$14,500.00 for the upsizing of approximately 860 feet of 8" water main to 12" water main; and approving a contingency in the amount of \$1,450.00.
9. **RZN 06-2028 Mountain Ranch C-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 22.68 acres, located west of I-540 and south of Betty Jo Drive, from R-A, Residential-Agricultural, C-1, Neighborhood Commercial, and RMF-24, Residential Multi-Family, 24 units per acre to C-2 Thoroughfare Commercial.

10. **RZN 06-2028 Mountain Ranch RMF-24:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 0.28 acres, located west of I-540 and south of Betty Jo Drive, from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.
11. **RZN 06-2028 Mountain Ranch RSF-4:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 1.17 acres, located west of I-540 and south of Betty Jo Drive, from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.
12. **RZN 06-2028 Mountain Ranch RMF-12:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 5.28 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial to RMF-12, Residential Multi-Family, 12 units per acre.
13. **RZN 06-2028 Mountain Ranch RSF-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 8.91 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RSF-2, Residential Single Family, 2 units per acre.
14. **RZN 06-2028 Mountain Ranch RMF-18:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 9.16 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RMF-18, Residential Multi-Family, 18 units per acre.
15. **RZN 06-2050 Wales:** An ordinance rezoning that property described in rezoning petition RZN 06-2050 for approximately 1.4 acres, located at 2055 North Fox Hunter Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.
16. **West Fayetteville Annexation Election:** An ordinance calling an election to determine whether approximately 2,000 acres contiguous to the western city limits should be annexed into Fayetteville.
17. **Fire Stations #3 and #5 Bond Purchase Agreement:** An ordinance authorizing the issuance and sale of not to exceed three million two hundred thousand dollars (\$3,500,000.00) of the city's General Obligation Bonds, Series 2006A, for the purpose of financing all or a portion of the cost of Fire Station facility improvements; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

D. INFORMATIONAL:

City Council Tour: June 5, 2006 - 4:30 PM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Added at Agenda Session

5/30/06

A. 12
2006 Justice Assistance Grant
Page 1 of 6

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police *FJ*

DATE: May 30, 2006

SUBJECT: Approval of the Continuation of the Justice Assistance Grant

On Friday, May 26, 2006 we received notification from the State of Arkansas Office of Intergovernmental Services requesting the authorization and application to continue our Justice Assistance Grant. The deadline for this authorization is June 12, 2006. We apologize for the short time frame this allows for your review. This grant along with a State of Arkansas allocation and local matching funds supports the Fourth Judicial District Drug Task Force. Since this is a continuation grant all the applicable terms and conditions will remain in effect from the current grant. The award for federal funding was reduced from \$198,312 to \$158,650 or by \$39,662. We anticipate federal funding for this grant will be completely eliminated by the 2008 grant cycle.

Recommendation: Council approves continuation of the Justice Assistance Grant. This grant will provide \$158,650 federal funds and the State of Arkansas will provide \$31,730 to support the Fourth Judicial District Drug Task Force. Also approve a budget adjustment for \$31,426. This adjustment will fund the budget difference as a result of the reduction in state and federal funding.

Background: The Justice Assistance Grant formally known as the Edward Byrne Memorial Grant has supported the Fourth Judicial District Drug Task Force since 1991 by providing up to 75% funding of all allowable costs. The Bush administration has already indicated federal funding for this type of grant will be significantly reduced and or eliminated. The City of Fayetteville Police Department has served as the lead agency and is responsible for grant administration. The 4th Judicial Drug Task Force is comprised of Fayetteville, Springdale, Johnson, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs, Elkins and Goshen Police Departments and the Washington County Sheriff's Department. The Fourth Judicial Prosecutor, Madison County Sheriff's Department and the University of Arkansas Police Department actively support the Task Force without being represented on the Control Group.

Discussion: During the grant period July 1, 2006 through June 30, 2007, the cost for Fayetteville Police Department will increase from \$150,000 to \$181,426. Increases are as a result of reductions in federal and state funding and increases in salaries, benefits and fuel costs. All other operational expenses are projected to remain the same. The City of Springdale and Washington County Sheriff's office will provide the local match and any increase necessary for each of their officers. The Rural officer will be supported in part by the smaller cities in Washington County, the Washington County Prosecutor and Program Income. This federal funding source has been in place since 1991. It has fluctuated some in the past but for the last two years it has been reduced from \$305,000 to \$158,650 for the 2006/2007 grant. At this point these funds have been completely cut out of President Bush's proposed budget. It appears within the very near future the City of Fayetteville will be funding all drug enforcement completely.

Budget Impact: The General Fund's portion of this expense for July '06 through July '07 is \$181,426 and a budget adjustment of \$31,426 utilizing fund balance is attached.

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

6/9/2006
City Council Meeting Date

Frank Johnson, Chief of Police
Submitted By

Police
Division

Police
Department

Action Required:

Approval of continuation of the Justice Assistance Grant in the amount of \$158,650.00. Also, approval of a budget adjustment in the amount of \$31,426.00.

\$ 181,426.00

Cost of this request

1010-2900-7602.93

Account Number

Project Number

\$ 150,000.00

Category / Project Budget

\$ 55,878.00

Funds Used to Date

\$ 94,122.00

Remaining Balance

Transfers

Program Category / Project Name

Support Services

Program / Project Category Name

General

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

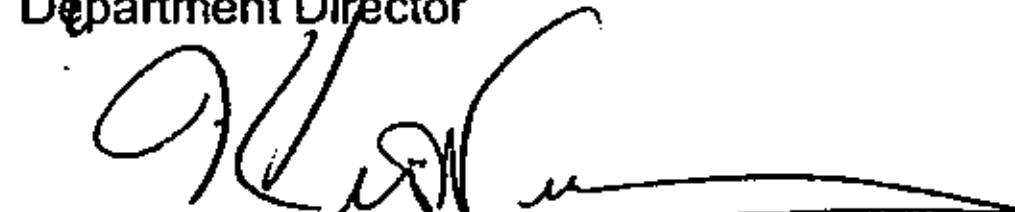

Department Director

5/30/06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney

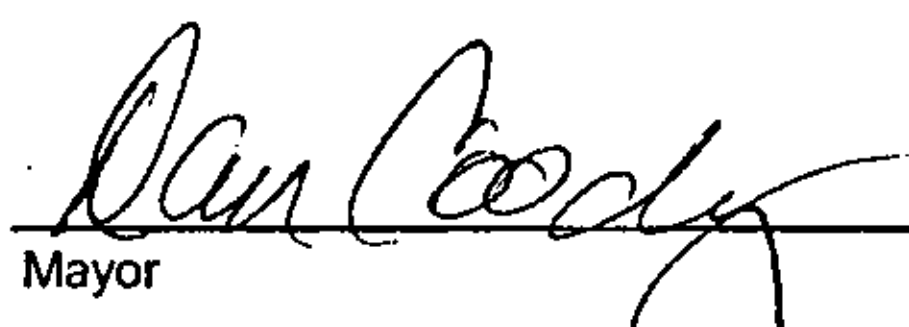
5/30/06
Date

Received in City Clerk's Office


Finance and Internal Service Director

5/30/06
Date

Received in Mayor's Office


Mayor

5/30/06
Date

Comments:

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

A. 12
2006 Justice Assistance Grant
Page 4 of 6

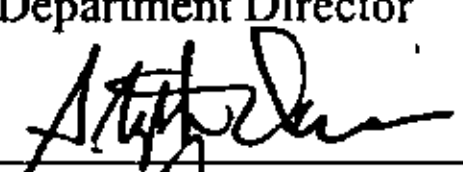
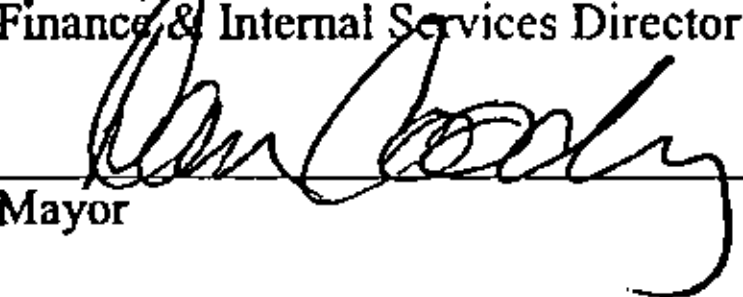
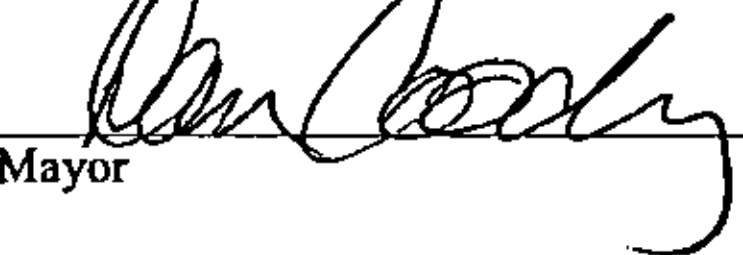
Budget Year	Department: Police Division: Police Program: Support Services	Date Requested	Adjustment Number
2006		5/30/2006	

Project or Item Added/Increased: Increase Transfer to Drug Enforcement Fund by \$31,426.00 from Fund Balance.	Project or Item Deleted/Reduced: N/A
---	--

Justification of this Increase: Federal and State funds were reduced for the 2006/2007 grant. This adjustment provides the increase to keep Fayetteville's efforts the same as they were for the 2005/2006 grant. These funds must be unobligated in order not to create a supplanting issue.	Justification of this Decrease:
---	--

Increase Expense Budget (Decrease Revenue Budget)						
Account Name		Account Number				Amount
Transfer to Drug Grant		1010	2900	7602	93	31,426

Decrease Expense Budget (Increase Revenue Budget)						
Account Name		Account Number				Amount
#N/A		1010		1800	99	31,426

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	D	E
Budget Manager	Date	Posted to General Ledger				Initial	Date
Department Director	Date	Posted to Project Accounting				Initial	Date
							
Finance & Internal Services Director	Date	Entered in Category Log				Initial	Date
							
Mayor	Date						
	5/30/06						

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE DEPARTMENT TO ACCEPT A CONTINUATION OF THE JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$181,426.00 TO ASSIST IN FUNDING THE FOURTH JUDICIAL DISTRICT DRUG TASK FORCE; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$31,426.00.

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 authorizes the Fayetteville Police Department to accept a continuation of the Justice Assistance Grant in the amount of \$181,426.00 to assist in funding the Fourth Judicial District Drug Task Force.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby a budget adjustment in the amount of \$31,426.00.

PASSED and APPROVED this 6th day of June, 2006

APPROVED

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

RESOLUTION NO. 55-05

**A RESOLUTION TO APPROVE A CONTRACT WITH JOHN NOCK
AND RICHARD ALEXANDER FOR THEIR PURCHASE OF
PROPERTY TO BE OBTAINED BY TIF FUNDING FOR
\$300,000.00 AND FOR OTHER MATTERS**

WHEREAS, the City of Fayetteville has created the Highway 71 East Square Redevelopment District No. 1 and adopted a Project Plan that requires the City to purchase four parcels of land, demolish the vacant and blighted structures thereon, and sell the raw land to the developers, John Nock and Richard Alexander to be used to develop a \$20 million dollar hotel, condominium, parking deck and convention facility; and

WHEREAS, the procedures mandated by Fayetteville Code §34.27 Sale of municipally owned property were waived by Ordinance No. 4651, passed on December 7, 2004 because such procedures would cause such delays as to render this adopted Project Plan unfeasible; and

WHEREAS the developers, John Nock and Richard Alexander, have offered to purchase the raw land after demolition for \$300,000.00 (which is more than its appraised value); and

WHEREAS, the contract with John Nock and Richard Alexander attached as Exhibit A should be approved.

**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 approves the contract attached as Exhibit A to sell to John Nock and Richard Alexander the four parcels purchased with TIF proceeds for \$300,000.00 and specifying other matters.

PASSED and APPROVED this 15th day of March, 2005.



ATTEST:

By: *Sondra Smith*
SONDRA SMITH, City Clerk

APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

CONTRACT

On this 15th day of March, 2005, the City of Fayetteville and Developers, Richard Alexander and John Nock agree as follows:

WHEREAS, the City of Fayetteville desires to remove the blighted area of the Mountain Inn and surrounding vacant structures (the County Courts Building, the Red Bird Cafe and the old Niblock Law Office); and

WHEREAS, the City of Fayetteville will be greatly benefited if, after the removal of this blight, a valuable new structure will be constructed on this cleared site bringing jobs, Sales taxes, and Hotel, Motel and Restaurant taxes, and stimulating increased economical activity and vitality and increased property valuation throughout downtown Fayetteville; and

WHEREAS, Developers Richard Alexander and John Nock have proposed to purchase the cleared blighted area for \$300,000.00 and build about a 22.5 Million Dollar Hotel, Condominium, Parking Deck, and Convention facility on this site.

NOW, above premises considered, the City of Fayetteville and the Developers, Richard Alexander and John Nock agree as follows:

1. The City of Fayetteville agrees to issue tax increment financing bonds pursuant to its ordinances establishing the Highway 71 East Square Redevelopment District Number 1 of Fayetteville as amended to include most of the Downtown Master Plan area, the Amended Project Plan for this enlarged District, the Bond Ordinance, Bond Purchase Ordinance (if necessary), **Amendment 78**, and SubChapter 3 of Chapter 168 of Title 14, **Community Redevelopment Generally**. These TIF bonds shall be issued to obtain net usable proceeds of \$3.5 million to the City of Fayetteville to effectuate the Amended Project Plan as approved by ordinance by the City Council on March 15, 2005.

2. The City of Fayetteville agrees to use the net available \$3.5 million proceeds from the TIF bonds to purchase:

(a) the blighted Mountain Inn property for	\$1.2 million;
(b) the County Courts Building for	\$413,000.00;
(c) the vacant Niblock Law Office for	\$500,000.00;
(d) the vacant Red Bird Cafe for	<u>\$500,000.00.</u>
Total for land acquisition	\$2,613,000.00

If bond proceeds in net usable amount of \$3.5 million are available by April 19, 2005, the closing for all four properties shall be April 20, 2005.

3. The City of Fayetteville agrees to use the remainder of the \$3.5 million not expended for land acquisition for demolition and site preparation to include:

- (a) demolition (including asbestos removal) of the newer part of the Mountain Inn, the Courts Building, the Niblock Law Office and the Red Bird Cafe;
- (b) resolution of access issues and utility relocation;
- (c) water and sewer upgrades (on site).

If the demolition and site preparation costs exceed \$887,000.00 (the remaining bond proceeds after land acquisition costs), **the City's responsibilities end after its full expenditure of \$3.5 million on this project.** If demolition and site preparation can be accomplished for less than \$887,000.00, any remaining money shall be used to pay TIF bond indebtedness.

4. Developers Richard Alexander and John Nock agree to purchase the four parcels purchased and demolished by the City of Fayetteville for a total of **\$300,000.00**. The Developers agree to purchase these parcels at whatever condition they are in after the City of Fayetteville has expended \$887,000.00 for Demolition and Site Preparation even if all such work cannot be accomplished for an \$887,000.00 expenditure.

If all of the estimated \$887,000.00 costs for demolition and site preparation is not needed to accomplish the demolition, resolution of access

and utility issues, on site water and sewer upgrade if needed, and asbestos and other necessary environmental remediation, Developers Richard Alexander and John Nock agree that any remaining money shall be used for repayment of TIF indebtedness.

5. Developers Richard Alexander and John Nock agree to construct or cause the construction of the Planned Development Project approximately as described on page 7 of the Amended Project Plan:

- (a) approximately 144 room, full service hotel;
- (b) approximately 18 condominiums;
- (c) approximately 12,000 square foot conference/meeting space;
- (d) approximately 300 space multistory parking garage;
- (e) restaurants, small shops, day spa;
- (f) rooftop botanical garden.

6. If economic conditions change or require an alternative development, Developers Richard Alexander and John Nock can satisfy this requirement by constructing or causing the construction of an approximately Equivalent Project subject to approval by the City Council, whose approval shall not be unreasonably withheld.

7. Developers Richard Alexander and John Nock agree that architectural or engineering contracts for the construction of this Planned Development Project or the Equivalent Project shall be entered into in 2005.

8. Developers Richard Alexander and John Nock agree that the construction contract for this Planned Development Project or the Equivalent Project shall be entered into no later than June 1, 2006.

9. Developers Richard Alexander and John Nock agree that the Planned Development Project or the Equivalent Project shall be finished and open for business and/or occupation no later than September 1, 2007.

10. Force-majeure.

All requirements for completion dates are subject to force-majeure and may also be extended by the Fayetteville City Council for good cause as requested and shown by the Developers.

11. Non-assignable.

This Contract may not be assigned to another party without the previous written consent by the City of Fayetteville after an authorizing City Council Resolution.

12. Jurisdiction and venue.

Arkansas law shall control the interpretation of this Contract and jurisdiction and venue shall be the Washington County Circuit Court, Fayetteville, Arkansas.

13. Waiver.

The waiver of one of the terms or completion dates in this contract shall only apply to that term or completion date and such waiver may be limited or conditional.

14. Freedom of Information Act.

City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Developers Richard Alexander and John Nock will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

15. Liquidated Damages.

The City of Fayetteville is incurring substantial TIF debt in order to accomplish its Project Plan so that the Planned Development Project can be constructed promptly enough to ensure the federal tax credits obtained by the Developers can be utilized. Without this need to obtain immediate clear title and ownership of all four parcels, the City of Fayetteville would likely seek to condemn such blighted structures at a potentially lower cost.

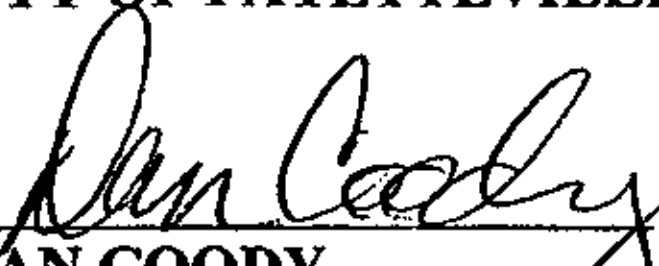
Therefore, if Developers Richard Alexander and John Nock fail to meet any of the requirements of the project dates for engineering, architect or construction contracts, the City of Fayetteville may opt to receive the conveyance of the four parcels of property back from the Developers for the payment by the City of Fayetteville to the Developers of \$10,000.00.

If the construction of the Planned Development Project or the Equivalent Project is not completed and open for business or occupation by September 1, 2007, the City of Fayetteville shall receive **\$25,042.00 per month** (\$834.73 per day) until the Planned Development Project or Equivalent Project is completed and open for business or occupation (but not to exceed twelve months for a total of \$300,504.00 in liquidated damages). This amount represents the estimated loss of monthly sales tax and HMR tax to the City of Fayetteville that the Planned Development Project should generate according to the Developers' estimates provided to the Fayetteville City Council in February, 2005.

In agreement to all terms, conditions and promises made above, the City of Fayetteville by Mayor Dan Coody and the Developers Richard Alexander and John Nock have signed below.

CITY OF FAYETTEVILLE

By:


DAN COODY
Mayor

Attest:


Sondra Smith, City Clerk

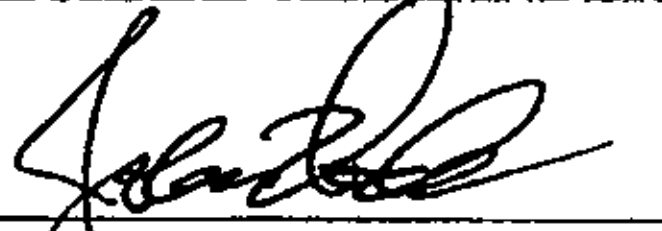


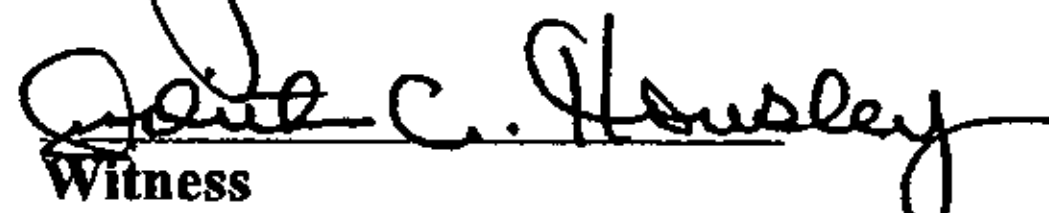
DEVELOPERS

By:


RICHARD ALEXANDER

By:


JOHN NOCK


Witness

**Minutes for
Special City Council Meeting
July 29, 2004**

A Special meeting of the Fayetteville City Council was held on July 29, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody: I'm going to go ahead and call this special City Council meeting to order. Would you please call the roll?

City Clerk, Sondra Smith called the roll.

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

ABSENT: Alderman Rhoads was absent.

Mayor Coody: Will you please join me in reciting the Pledge of Allegiance.

The Pledge of Allegiance was recited.

Mayor Coody: Thank you very much. We have one item on the agenda this evening and that is the approval of an ordinance. Kit do you want to go ahead and read the ordinance.

Kit. Williams: Yes, your honor. (The city attorney read the ordinance for the first time.)

Highway 71 East Square Redevelopment District #1: An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan. *This ordinance was tabled at the July 20, 2004 City Council meeting to the July 29, 2004 City Council meeting.*

Mayor Coody: Alright thank you very much. Any of the City Council people have questions or comments on the ordinance before us tonight?

Alderman Thiel: I still have some questions. I had several calls today on things that weren't entirely answered at the public hearing. What happens if the Alexander/Knock Corporation fails if they get half way through rebuilding this and they somehow lose their funding? Where does this building go to? Who is still obligated for the bonds, etc?

Kit Williams: They are building this also upon investments from a private investor who will certainly have a mortgage right on the property. The property will be owned by initially the developers and then by their investor not by the city. The city would not actually even have a financial duty to pay the taxes of financing bonds but they will continue to be paid with the taxes from the financing from the county collector on the excess of funding beyond what it is right now for the millage. So those bonds would still be paid. The increase expected might not be as much as one would have hoped so it might take longer for those bonds to be paid. They would be a obligation of the city unless the City Council chose to make them an obligation of the city.

Mayor Coody: Does that answer your question?

Alderman Thiel: Kind of. You had also said some things last night that weren't fully answered to my satisfaction and that is what is the process of us; you've indicated that the city would have to own that building initially or that property they would have to buy it. Explain that again to the public.

Kit Williams: Well that would all be part of the project plan which is what we're not actually adopting tonight. I don't think the final decisions have been made on that. My tentative position would be that I would prefer us to actually own the building, the part of it that's going to be demolished, then have the building demolished and pay for that with increment financing. Pay for the development of the site to be prepared for actual construction. In other words we'd clear the site and have it ready for development prior to then selling it to the developers so they could begin construction. The demolition and preparing the site is clearly spelled out and given you all the power to do that under the redevelopment statute. Therefore, that's why I prefer that sort of undertaking as opposed to other possible scenarios that have been presented by other developers and their attorneys.

Alderman Thiel: So in other words the three million dollars, they would use that basically to buy the property from city and Pay or reimburse the city.

Kit Williams: No, the city would use the tax. The developers can't use the tax incremental financing that's what the city uses, that's city money, its money that you will get when the tax incremental bonds, if you decide to do that, are sold. That money would go to the special fund that you all would be creating and that you have control over, that fund must be spent on the project. If the project plan says that the city will use those funds to try to correct this blight by buying it, demolishing it and preparing the site for construction then that's what you would do. That would be part of what we do as a city, at that point then when the property is ready to be built upon that's when it would be sold to the developers so they could go ahead and do their part which is building the building.

Alderman Thiel: Where does this figure this three million dollar figure come in then?

Kit William: You'll have to ask the developers that. I haven't priced out what this would be and like I said that's part of the project plan and I have not done any of that part at all. The only thing that we are considering now is creating this particular district which has to come first before the project plan can be created according to the statute.

Alderman Thiel: Okay. Another question someone had was have we looked at the traffic projections from this hotel with the size and everything being what it is?

Mayor Coody: As to its impact on College Avenue or

Alderman Thiel: Yes, the impact on just the traffic, just traffic coming in out of that corridor. I mean that's adding a lot of traffic to the downtown area.

Hugh Earnest: The short answer is no. One of the montra that I guess all of us have to keep saying and something I've said repeatedly to the developer, in the project plan approval there were what I call 19 shalls in there, they shall do these things. One of the issues in there is the

economic feasibility study which of course addresses a lot of things I know Mrs. Thiel that you and other people are concerned about. I would presume that that economic feasibility study will have to address some of the traffic issues, because obviously there is going to be some change in how traffic is going to flow in that area. That will be a part of what we will have to do either as part of the project plan or certainly as part of the development process that we will control as the building moves through our approval process.

Alderman Thiel: Just because we adopt this outline, that's all we're doing right now basically is establishing the TIF. If we don't come up with a plan that is satisfactory to everybody then what happens?

Kit Williams: Well then you would not go forward with your project. We are creating a redevelopment district. It's not a TIF district yet unless we decide to go through that kind of financing. One of the items that must be done in this project plan is a detailed list of estimated project costs. That's where we'd look to see what can the city do to assist in removing this blight. What will it cost to do those things to remove the blight? The final thing must be done in this project plan is for you all to find that it is economically feasible.

Alderman Thiel: Okay.

Kit Williams: Of course there has to be a hearing, a public hearing before this plan is adopted, just like this ordinance and that's probably one of the most important decisions that City Council will have to make.

Alderman Thiel: Okay. Thank you.

Mayor Coody: Is that it?

Alderman Thiel: Yes.

Mayor Coody: Who's next?

Alderman Lucas: So then the other night when the three million dollar bond issue was batted around, it might not be a three million dollar bond issue then, you don't know.

Kit Williams: I don't know.

Alderman Lucas: It might be six million dollars or five million dollars.

Kit Williams: No I don't think it could be

Alderman Lucas: Two million dollars.

Kit Williams: I think it could not be greater than three million dollars because I don't think that the very conservative figures that they must use to market these bonds will support a higher amount than that. I don't know that for sure because they're talking about money left over in the future if it grows maybe faster than their conservative figures. I would think that would be the top end and it might be what the city can do would not be that much. I don't know we'd just

have to look at it and you all would have to make the decision of what you are willing to do to remove this blight.

Alderman Lucas: Okay. One more question. They talked about bond service the other night. What if the monies that are raised from the tax increment does not meet that bond service? Who is responsible for it?

Kit Williams: Well if we have not committed other revenues which you can according to the statute but I don't recommend that we go down that road, but it is something that the City Council can do. As long as you have not done that those bonds can only be paid by the incremental tax payments and if they're not paid, if it somehow shortfalls it doesn't come back against the city if we have not pledged anything voluntarily. The statutes kind of opens that door, if want to walk through it but we don't have to walk through it.

Alderman Lucas: Does that affect the city in anyway? Their ability to float other bonds later on or something?

Kit Williams: Probably not because in fact it is not a city debt, it's a debt only of this district and therefore should not reflect on us. We heard that from one of their speakers the other night. I'm not a specialist in bonds and what they're going to look at in order to give us higher ratings or not. It will not be a debt of the city though and therefore one would hope it would not reflect badly against us.

Hugh Earnest: If I may Mrs. Lucas one of the things that will happen as part of the project plan and this is another shall, if tax increment financing is to used then the method for calculating the tax increment which shall be in compliance of the provisions of the subchapter together with any provisions for adjustment of the means of calculation. In layman's terms the developer will propose how they plan to pay for this. You may rest assured that on our side of equation, our investment people, and we have someone hired as part of our service will look at that so that you have an excellent assurance that what they are proposing can be met under very conservative projections of the increment.

Mayor Coody: Does that answer your question Ms. Lucas.

Alderman Lucas: Yes.

Mayor Coody: Anyone else have any questions right now?

Alderman Reynolds: I don't understand, are we going to sell the three million dollars in bonds to the city or is that going to be a responsibility of the TIF district.

Kit Williams: You control the TIF district. These will be, should be just TIF district bonds, but the City Council controls the TIF district and improving any plan or amending the plan, amending borders. Doing whatever you wish to with this district as long as it doesn't violate the terms of a bond you might get into. The City Council will be ones making the decision but the bonds will have on their face that these are special bonds that are only going to be paid by tax incremental financing not by city general revenue unless you choose to change that. Therefore they should not be an obligation of the city but only of that district.

Alderman Reynolds: You said should but, if I support this I surely want your word that this thing is going to be written up to the fact that we're not going to be responsible as a city.

Kit Williams: Well my word will be I will do whatever the City Council instructs me to do.

Alderman Reynolds: Thank you.

Kit Williams: The City Council can, if you'll look at the back of my fact sheet that I gave you where it talks about TIF bonds there is a provision in there, § 14-168-318 that gives the City Council powers to do other things to make the bonds more marketable. My recommendation is that you don't do that but I don't control the City Council so I can't give you my word. I will not write that up because if the City Council instructs me to do that, then I am bound to do it.

Mayor Coody: I would recommend that we follow the attorney's recommendation on that.

Alderman Thiel: I'm not an attorney; I would be concerned if we didn't have leans or something on this building. I realize that this can be a discussion at a later date whenever we actually get into the plan, but I'm still concerned about if the building is not completed and is left it could be worse than what we have there now.

Mayor Coody: Can we get some performance bonds on this?

Kit Williams: I don't know what we can do but we wouldn't have a right to have a lean on the building because we would sell the property and the property would no longer be ours, it would be owned by somebody else. We have no interest in that property and therefore we could not have a lean or a mortgage. The first mortgage is going to be the person who has not invested a few million dollars but the person who has invested 20 million dollars to do the project, the private entity is going to need that mortgage. We don't have any right to a mortgage on that because we won't own the property. We'll be basically out of the game once we've gotten rid of that blight and prepared the property for this project to be built.

Alderman Thiel: Okay. I understand.

Mayor Coody: Anyone else? Anyone from the public want to address us on this issue? How are you tonight Sharon?

Sharon Davison: Good evening. My name is Sharon Davison and hopefully I'll present some thoughts for you to consider. I'm sorry I'm tired and ill prepared but here goes. I am here to speak about TIF and Mr. Knock tonight and it is a real serious matter. I will just pass on first just my husband's comment as a taxpayer he says please don't hurry, City Council members, please take your time working through the information you're been given. He said that private business is suppose to support themselves in their projects and the reward is that they have invested or risked whatever. I think there are a lot of taxpayers that are concerned when we don't have money to save our own library because of the funds. When we have issues of management and plans for half a million here and a million there, all of the sudden three million is now ready to help a person renovate. Okay for a private enterprise. That is his questions and his thoughts as a conservative business person and a taxpayer as to the time, energy, over accommodation of what we're all doing and why we're rushing. Now it seems to be at this point of urgency the marketing campaign for this project of TIF has been very pervasive.

I was channel flipping and noticed Mr. Knock's walk through of the dilapidated unsafe structure. Yes it did look horrible and we all know its been allowed to get that way and funny how it all became front page news when I believe we did have to pay for the plywood to cover up some of that building, when all the sudden we had extra windows broken out. I think that gets to TIF and blight and the basis of square one, the Mountain Inn, the block of the Mountain Inn. Guess what folks that's the only real blight area in our town right now, our town is looking great. Thank you, good night.

Mayor Coody: Thank you for your comments. Quick question, Kit is the city going to have any general fund money in this project at all?

Kit Williams: I would think not. The City Council could do certain things like but I don't think the City Council is going to want to put general fund money in it.

Mayor Coody: I don't think we'll have any city money in it either.

Alderman Marr: Mayor.

Mayor Coody: Yes sir.

Alderman Marr: I just want to make sure we are clear, our meeting tonight is to talk about a boundary of the Tax Incremental Financing District, whether that boundary is appropriate, and whether the conceptual plans, that maybe coming as the second phase of this, warrants the boundary that we're speaking to. So I hope that all of our future people that come to the podium will direct their comments to the issue we are talking tonight.

Mayor Coody: Thank you. Anyone else like to address us tonight. How are you Don?

Don Loftis: I am a property owner on Center Street. My property along with my partners adjoins the Mountain Inn and we would very much like to see this project go through.

As far as the property lines, I don't have a problem with that. It would appear that the developers have drawn lines where there is a very minimal of residential areas in this project which is what they have tried to accomplish I think. I would urge the Council to approve this. If they feel like they need to move some lines I don't really have a problem with that but I feel like you should pretty much stay with what the developers are doing here. Again, we're not talking city money, this is not costing the city anything. All they're asking for is your approval for them to build this, so it's like me going out and building a house all I have to do is get a permit from the city and go build a new home. That's what they're trying to do here only it's a 22 million dollar project. So I would urge the Council to approve these boundary lines as they've got them drawn or very close to it, so that these people can proceed with this project.

Mayor Coody: Thank you sir. Would anyone else like address us.

Rob Merry-Ship: I am a developer here in town. This is a new one; talking about a project I'm not involved in with my partner Richard Alexander. I have known John Knock for about two years now and I'd like to speak on his behalf shortly if I may.

John was brought in when we worked with Stella Moga. We facilitated the purchase of this property two and a half years ago for Stella. We had managed the property adjacent to it. I've been privy to a numerous amount of meetings to develop business plans, the first bringing John Knock to the table to help us set some plans that fell short with Ms. Moga on this property. It's been an ongoing project. I also hope that you will consider these boundaries and hopefully we will create a TIF. I hope to see maybe numerous more TIFs that might facilitate parking, infrastructure, street scape, and affordable housing. We haven't done this yet, we need to be very concise on how we do it. We need the public input but I can assure you I know that Mountain Inn project. I know that it keeps going back to the Mountain Inn. It is not going to happen without this TIF. That's not a threat, it's just a fact of life because it's just one piece of a puzzle of numerous pieces of a business plan to bring in private money and some assistance. Like the gentleman just mentioned, it's not going to be a burden on the city if it's done the way it is suppose to be. It's a tax deferring mechanism that will have an impact immediately on the Mountain Inn and then as it widens over time it will have an impact on the whole area, the whole district. The area that you decide on as far as streets, lighting, it will be a good thing for not just the Mountain Inn. Although the first and I think the most important impact of this one piece of the puzzle, this is talking about the Mountain Inn now is this. I encourage you and wish you good luck. I'm not involved in it by the way.

Mayor Coody: Thank you very much. Anyone else want to comment on this tonight.

Jim Boyd: Most of you all know me; I've been practicing law here for about 30 years. I live in the historic district, the Washington Willow Historic District, for 29 years in the same house. I have clients that have property in this proposed district and have owned property here myself. I just wanted to speak up and tell you that I think this TIF is a good idea, it's something new, it takes courage to do new things. Obviously the Mountain Inn is an eye sore and getting worse not better, downtown Fayetteville is barely hanging on, the construction and activity and money is going north of here, so whatever you can do to save downtown you should do that and seriously consider that. If you can turn that sow's ear into anything close to a silk purse with private enterprise footing the bill you should seriously consider that and it's just like a raise in tide lifts all boats. If you can fix that problem and make that something very valuable it will affect all of the rest of downtown. I know I'm telling you things you already know, but I think you should seriously consider this. It's not like we're dealing with people we don't know. Alexander has a reputation of having practically worked miracles in redoing old buildings, if he says he can do it I have a tendency to believe he can. So to that extent that he needs a leg up I don't see how this hurts the city all. I can see how it can help the city a great deal but I ask you to give serious consideration to this and to the extent that you can fix that problem and start downtown Fayetteville growing back up instead of continuing to deteriorate, you should seriously consider that.

Mayor Coody: Thank you sir. Go ahead. How are you tonight?

Professor of Economics: There is no question in my mind this is great idea for the city. First of all I think that it's going to improve, significantly improve the infrastructure of the downtown area of Fayetteville. I think as much as I've heard from, I know about this project, the developers have put a really good project together and they're taking time putting everything nicely together. So to be short, please I think I support this project and that it's going to be very good for the downtown area.

Mayor Coody: Thank you sir. It's good to see you again

David McGeady: Good evening ladies and gentlemen. I'm the general manager of the Radisson Hotel. First off I'd like to say God bless America for free speech. I've been in Fayetteville for five years in that time frame I've initially fell in love with the Mountain Inn and was hoping to see something to transpire with the Mountain Inn. I am on the A & P Commission and I'm on the Board of Directors for Arkansas Hospitality Association so I have a great interest in further development for Fayetteville. I would like to see Fayetteville become a destination point for citywide conventions. To have citywide conventions you need to have enough hotel rooms to sustain that and to draw people into Fayetteville.

From my prospective as on the convention side we would need to have a property, that being the Mountain Inn, that would partake in that for trying to attract conventions citywide which would have a great impact which would obviously expand the tax base and obviously the A & P tax money. Based on that if we were looking in that futuristically for drawing in convention business I think it would be a very prudent thing to do.

As the market currently stands with transient business being some what down in Fayetteville, I don't know if it could sustain business. The time frame were looking at is maybe two years outward for construction and opening up the property, if it would be able to sustain just on transient business. I think the focus needs to be and needs to be incorporated into this that part of this really needs to focus on the overall citywide convention business which would put Fayetteville on the map and drawback some of the business that is going up north.

I thank you for your time.

Mayor Coody: Thank you sir. How are you Linda?

Linda Ralston: Good evening. Bouncing from Alderman Marr from Tuesday evening's hearing that it has been hard for me to separate boundaries, use, plan and everything. It seems like it all flows together. I won't be long but I do have a couple comments that I've just been doing little further research that I wanted to bring before you. I doubt that probably that all interested parties have had a chance to reach ya'll. I'm concerned I'm a new resident of Ward 3. This seems to be kind of a rush, we're meeting tonight and you will probably complete a first reading. You will meet again next Tuesday where you can complete a second reading and this probably will go pretty quickly in that regards. I hope that people do continue out there to contact you throughout the city as to their comments. I still feel like a lot of us still have questions. I know ya'll do and I'm sure the citizens even though they received a letter, because they're in the proposed district, may still be internalizing a good question that they may have so I hope that we don't rush through the readings.

I'm from Fayetteville and was reminded of something that happened when I didn't live here and that was the incinerator project. Several of ya'll are probably aware of that and after doing a little checking on that project it appeared that those bonds actually had stamps on the front cover, each one of them in red letters, "*This bond will never be an obligation on the City of Fayetteville*". This was just brought to my attention later this afternoon.

Apparently the City of Fayetteville actually did spend millions of dollars to get out from underneath these bonds, they were actually issued by another group outside of the city. I know

this is probably different from what we're looking for now and everything but that is something as we talk about financing and bonds. I'm not still sure who will issue the bonds maybe I need to hear that one more time where all that comes together. There is concern even based on things that we believe to be true that the city would not be indebted and yet why in the incinerator project did that not happen that way? So I just wanted to present that as a historic prospective of sorts. I'm not sure if anybody could even address that tonight or not.

I asked Richard Alexander the other night about part of the district that obviously does involve a second key element of the Dover Kohl Downtown Master Plan and that is the Archibald Yell/ College Avenue redevelopment. I'm wondering, and Richard did say that yes we would certainly have to have highway department approval. We probably just can't go and say hey we're going to do a boulevard and whatever. It's a lot more intricate than we've got some money and let's do a boulevard and traffic calming and sidewalks and stuff. I guess that is possible it's just a matter of how does it all blend together that is another question I have.

Also a thought is that if the city does appear, as Council you are the governing body potentially of this TIF, you know and the bonds are secured by tax dollars. You know it ties back into my earlier comment, how can the city not be held liable for the bonds. I am not sure is it connected all the funding and everything.

My thoughts also took me back to something that Kit mentioned but I think we all kind of internalized and this is a paraphrase, Kit can say it better than I will be able to this point. As we look at the boundaries and try to decide what is really, what our first try at a redevelopment district and a TIF District is, apparently the entire district has to benefit from the improvements. Again, probably a heavy paraphrase on that Kit but I know it was mentioned to try taking the boundaries all the way leaving residential out which I am certainly more in favor of. Maybe taking it all the way down I can see that the highway maybe more connected to the improvement its almost an entrance into Fayetteville. Ultimately I'm not sure how you can prove or how much you have to substantiate that something that happened at Cato Springs and School actually was benefited because of all that was put together. So maybe I'm kind of unclear as to some of that.

If a property owner, for example like Richard Alexander, who I believe will become the new owner of our current Roberta Fulbright Library property. I know the first year we established a base value as far as where things get calculated from there. The Roberta Fulbright Library I understand will be actually private, owned by him and I was just wondering if an exempt property owner somehow in the process of this 20 or 25 year project if it becomes a private property, how does that merge in. How do the revenues get treated? Does it get adopted in automatically or does it get to stay exempt.

Mayor Coody: Oh no. Once it becomes private and starts paying taxes it's a tax paying private entity.

Linda Ralston: And if it's in the district and the boundaries then Mayor Coody it would, supposedly be included in the....

Mayor Coody: Yes, it would participate with every other property within the district.

Little Ralston: In the calculations. Okay, those are just some thoughts that I've had since a couple days ago. This is really very fascinating and yet I do have some concerns of hoops and maybe some hidden items and information that we still may not totally have. You have got an incredible decision before you and I hope again that this is not rushed that we certainly encourage people to come and understand. It takes a little bit of reading and internalization and I don't feel like the average citizen probably maybe has that. So I hope that ya'll continue the dialogue. I don't think this is a timely project, apparently there are monies on the line as far as at the end of the year, these new market tax credits and grants and everything, but I think that we still have plenty of time. I would love Ward 3 representation of someone to talk with. I hope that ya'll do go ahead and do this in normal timing and not rush these reading. Thank you.

Mayor Coody: Thank you Linda. Anyone else want to address us tonight?

Morgan Hooker: I in the past have developed property down in this area and currently have several projects that I think would impact this area. I also know John and Richard, the guys doing this and can speak very highly about them and the effort that they have poured into this project and many other projects. I've had the unfortunate pleasure of being in the Mountain Inn the last few years and with the kind of background in construction I think everyone needs to think real careful about what could potentially ever go there if this project didn't somehow work out. The people that I'm working with and projects that we have in this area, we would be in support of the TIF district and the boundaries. Thank you.

Mayor Coody: Thank you sir. Anyone else like to address us on this item tonight?

Bill Stafford: I am president of the University of Arkansas Technology Development Foundation. I hope that you will consider this TIF District. The boundaries seemed entirely appropriate to me, primarily because of the extent of the improvements that can be made. As you consider this I hope you will not only consider the direct benefits that will occur downtown and throughout the limits of the district boundaries but the indirect impact that it could have as well.

As you know I'm working hard to develop the Research and Technology Park in south Fayetteville. We have a goal of being able to attract Fortune 500 companies to the park and our ability to bring those kinds of companies to this community even though it's the greatest community in the United States, would be greatly enhanced by doing this. Using the TIF mechanism seems to be an appropriate mechanism as a catalyst to begin to implement some of the recommendations that Dover Kohl did. I hope you will consider it and do think about the secondary impact of doing this on the rest of the city. Thanks.

Mayor Coody: I think you might be the first person that mentioned the word boundaries in these speeches today. Thank you.

John Knock: I am one of the proposed developers. I've lived in Arkansas since 1977 and I've lived in Fayetteville since 1991, this is our home. This is where we're raising our family and regardless of whether this project happens or not I will continue to live here because it is a great place to live. I appreciate the dialogue both those that are pro and those that con to the project.

The only reason that I'm standing up tonight is to share with you something that we omitted in the schedule last night and that was information about what comprises in boundaries since

tonight the discussion is about the boundaries, I've handed out for your view and it's available for anyone else who would like to see it. This information that is provided by the Washington County Assessor's office and is the makeup of the 405 parcels. I will just read them rather quickly so the audience at home can follow along.

They identify a commercial building only as one parcel, commercial improved, 141 parcels. Commercial miscellaneous, I'm not sure what that identification is but that's the county, 14. Commercial residential, 4; Commercial vacation, 26; Exempt properties, those are not paying taxes, 92; Industrial improve, 1; Industrial vacation, 2; Public services, 5, Residential Improved, 86; Residential miscellaneous, 5; and Residential vacation, 28. I think that will give us a fairly good makeup of what is in the boundary. I appreciate the opportunity. Thank you.

Mayor Coody: Thank you very much. Anyone else want to address us on this item tonight?

Bill Ramsey: I'm the president of the Chamber of Commerce but I do not have my Chamber of Commerce hat on tonight. I don't have an official position. I think in a way we're getting the cart before the horse. We're talking about boundaries tonight. We're talking about establishing some boundaries and these are days when we have to look at creative ways of making things happen. I mean these are different times and this is a new vehicle and I need to think about if we don't establish some boundaries and at least open up the opportunity of whether we want to do these projects, correct me if I'm wrong but I don't think we're talking about a project tonight. I think there are going to be feasibility studies and if the feasibility study shows that something isn't feasible, it's not going to be done, but folks we need to look at the options. As a citizen and I'm speaking only as a citizen, I live on Forest Heights in Fayetteville, I'd hate for us to look back down the road and say we closed the door on an option that we could have looked at to make something good happen in Fayetteville, Arkansas. In a way I'd hate to say it but I think some other people in some other areas may be already a little ahead of us. We're not voting on a project, we're deciding and taking the first step on whether we can even consider using the TIF District to make things happen in Fayetteville. Mr. Attorney am I right on that or am I wrong? I'm still here to learn, this is brand new and since it is new I think we owe it to ourselves and we owe it to the citizens of the City of Fayetteville to at least open that door so that we can at least explore our options.

Kit Williams: It certainly is a two step process. We have to decide what the boundaries are and create the district before you then attempt to create a project plan and go through all the other feasibility studies. So it is a two step process, we are on the first step tonight.

Bill Ramsey: If we don't take the first step we can't take the second step. I would urge you to take that first step and let's look at whether you want to go to step two. We've got to take it one step at a time but you've got to take that first step before you can proceed. I would urge you to.

Mayor Coody: Thank you sir.

Ron Thornton: I've been a resident of Fayetteville many hours now. I am a Fayetteville graduate, I'm rooted here. I'm not sure how appropriate it is that I speak but I'd like to speak because I have worked personally with John and have been a friend of John's for at least ten years. I feel like his integrity has been called into question quite often tonight. I know in the process of creating these boundaries this process was done strictly and very closely with the city in a very open manner, there were no closed doors or anything. I think the district as it is drawn

is very effective. I know before the school board really gave us their approval or were on broad every one wanted the district to be smaller, but now the school board actually themselves release a CFO suggesting that we expand the boundaries. I think that as it is the boundaries are certainly not too long, especially if we compare them to the boundaries of the TIF District in Rogers which is three or four times larger than this one. I hope that you will approve these boundaries, but more especially I hope that that these forums and discussions will be centered on the business of the deal instead of the personal attacks on the character of many of the people involved. I would like to say that I would stand up and put my name on the line for the integrity of John Knock. He is a resident of Fayetteville and his desires are to do what's best for this community. Thank you for your time.

Mayor Coody: Anyone else that would like to address us on this item?

Phil Ralston: I'm a Fayetteville resident and I just basically have some questions and concerns. You're considering creating a district tonight without a plan, but the district size is based on servicing a three million dollar bond issue. Somebody's done some planning but we're not privy to what's on the plan. Why three million dollars? What's that going to be spent for? Is that money that you know is going to be gone? Kit tonight said that the city won't own the building but in the plan they may own the building long enough to tear it down and get it ready for someone to build on, if that happens, how do we sell it? Do we have to sell it to these developers? What if someone comes up with more money and has a different plan. Who's going to decide that? Has it been already decided that we're going to spend a million, the thought was buy it for a million, tear it down for a half a million, and then sell it to them for something but we don't know what. Who's going to decide what's a fair value at that point and do they have first bid on the first value or can somebody offer more.

Part of the district says we have to have a benefit to everybody, if we widen College that's going help the businesses on College a lot more than those folks on the far side of the square. Who determines what benefit each person gets or each landowner or person in this district gets? Do we have equal benefit, probably not but how do you decide that? Who's going to run it? Is there going to be a TIF board when we decide we're going to spend some money? Does that all come before you every time we decide to spend part of this ten million dollars that we're expecting to get, or conservatively guessing. It's not going to cost the city any money but it's going to cost the taxpayers money. The money that these increments are, would be going to the school board, the school district. The school district is getting their money from the state now. Well I'm a state taxpayer too so they're getting their money but I'm paying for it and with Roger's bigger TIF I'm paying for more of theirs too. I'm not sure that TIF is a way of putting the money to somebody else farther removed from the taxpayer so he doesn't know what he's doing. You're taking my money to go to the school board but instead of it coming through my property taxes here, if I'm an owner in this area it goes through the state somewhere else. If I'm not in that district I'm going to pay for because I pay state taxes. My biggest question is how can you even consider approving a district if you don't know what the plan is and haven't given enough thought to know how much money we're going to get, where's it going to be spent, how's it going to be spent. What are we doing? I just don't know how you can approve a district without all the other answers. Thanks you.

Mayor Coody: Thank you. Do you want to address some of these questions?

Kit Williams: Whatever you want. Do you want me to address them now I could....

Don Marr: Let's get all the comments out of the way.

Mayor Coody: Then address them all at once. Did anyone else want to address us tonight? So everyone has spoken their fair share this evening and no one wants to ask anything else. Alright.

Kit Williams: In fact there are a number of questions you might have to help me remember all of them. I think you're looking at the TIF Board right now. There's not going to be a separate TIF Board. The City Council is the one that makes the decision, if they make the decision on the finding that they must make to pass this ordinance. Let me read the statute, it says what this ordinance must have as a finding. One of the things, *"It must contain findings that the real property within the redevelopment district will be benefited by eliminating or preventing the development or spread of slums or blighted deteriorated or deteriorating areas or discouraging the loss of commerce, industry or employment or increasing employment or any combination thereof."*

That is a finding that the City Council has to make, that by creating this district the property within it will be enhanced or benefited by the removal of blight and also possibly encouraging employment and other things like that. That's a finding they need to make in order to pass this particular ordinance to create the district. Obviously there's been talk about the project and I think that even though the project is not detailed yet there must be some other understanding of why this district is or should be considered. That there is blight within this district and the project is designed to get rid of the worst spot of blight as well as probably a few other things that would be detailed in the project plan. That's the finding they have to make and think the way this statute is set up. They have to do this part first before they can go forward and do the much more detailed project plan where you'll see all the estimated costs, all the projects that are recommend to be done and any possible financing for doing that. That's why this is a two part process I think, because creating that project plan would be very complicated and expensive to do, so I think that's way it's a two step process. Do this part first, will this district be benefited by removing the blight and then get into your project plan.

The incinerator case was talked about and I'm very familiar with that because I was on the City Council when we had to spend millions of dollars because the Supreme Court ordered us to do it to pay attorney's fees, not to pay bonds. In fact the supreme court told the City of Fayetteville you cannot pay those bonds because the bonds were stamped on their face, it's not an obligation of the city. What happened in the previous form of government, the city Board of Directors, even though that's what the bonds said they committed themselves by contract to pay the Resource Recovery Authority who had issued those bonds and whose indebtedness those bonds where not the city's. They had committed themselves by contract to pay the Resource Recovery enough money so it could pay the bonds even if the incinerator was never built and even if they never received any trash from the City of Fayetteville, that's what happened. The city decided not to build the incinerator or the Resource Recovery Authority did, so there was no money to pay the bonds. So what happened, an ordinance was passed that all of the rate payers had to pay an extra \$2.02 a month to pay these and that was unconstitutional. Therefore that's what the supreme court found and we not only ended up paying our own attorneys but outside attorneys about three million dollars and about the same amount to the ratepayers' attorneys. That's a very hard lesson, I think, the city government learned. I know I learned that lesson very hard when I was on the City Council and since I've been city attorney I've been very careful that we do not fall into that kind of trap again because we don't have the extra millions now to pay that kind of

money. I will be watching this very carefully and advising the City Council when they get into a dangerous area and hopefully they will not get into a dangerous area. They will leave the bonds just as they are and not try to commit city resources to secure these bonds and pay them if the tax incremental financing fails.

Mayor Coody: We didn't have the extra millions then either.

Kit Williams: What happened is that we didn't do capital improvements projects for several years and we're still trying to catch up because we had to spend all that money on both our own outside counsel and also the rate payers' counsel. That was a hard lesson learned but I think we've learned that. What other questions were there. .

Mayor Coody: I've been going to back to the original question of the three million dollars owed to satisfy that portion of the bond, the building, the reconstruction of Mountain Inn would be paid for out of proceeds from bonds issued by the TIF district that would be repaid by the increment that we're talking about. So this wouldn't be city bonds. This wouldn't be the city issuing bonds and paid for out of city tax offers. These would be bonds that we paid for and obligated to be paid for only by that increment of property tax that we've already been talking about all this time. So this wouldn't be a city obligation with city money involved and I think that keeps getting lost in the conversation.

Kit Williams: The other thing is that we don't know how much its going to be. None of us up here have seen the project plan, the estimated cost and there are certain things that you can use TIF money for. There are other things that I have questions about whether you can use the TIF for.

I am going to take the more conservative view when it comes to what we can spend it on because I don't want to have another incinerator case, or another case where people think that we are using tax dollars inappropriately.

You can certainly use TIF money for public improvements to streets, sidewalks, lighting, things like that and public improvements. We can also use it, according to the statute, to buy blighted property, demolish it and get it prepared for construction. There is arguments that I've heard that well you can even use it in helping to build the structure that you would then lease or convey to a private enterprise. That gives me a little heartburn when I hear that and I'm going to have to be pretty strongly convinced that that's absolutely rock solid that we can do that. I don't think I can be convinced and the reason because this is a brand new law. The courts have never interpreted this law.

Mayor Coody: Right here in Arkansas anyway.

Kit Williams: Yes. well in each state you've got to look at it for each state because each state is unique and I don't what to be pushing the envelope. I would rather do what we can statutorily and constitutionally do that I'm sure of and do what we can to help this project but I don't want to step over the line either and that's going to be my advice to City Council that we stay within the bright line that I know that we can actually do. There's a lot of help we can give this project. Being able to acquire the property and fix it up and get it ready to move utility lines. There's lots that we can do that's clearly within the statute and constitutional that should be a great help to this project that's desperately needed to be done for Fayetteville. I think we can do that. I don't

know exactly how much that's going to cost. We've got to wait for the project details to come out and that will be a whole another discussion up here.

Mayor Coody: And nothing gets approved until the plan is fully bedded by everyone.

Kit Williams: And approved as economically feasible by the City Council.

Alderman Thiel: Mayor.

Mayor Coody: Yes ma'am.

Alderman Thiel: I have one more thing to say but I want to make sure the public did get a chance to comment. We are just talking about this area and several times tonight people have mentioned the Rogers' project and while I think there might be something questionable as to whether or not that really regards blight. There's no doubt that speculators that have bought land there want their property values to increase.

What I've heard from residential people is that there are still concerns about and I know some people would question the logic behind this but these people they've bought their homes, they can't afford the property tax. They don't want the area around them to increase, they don't want their property to increase in value, they have no intention of selling their property, it's all they can afford to live in and own. They can barely manage the increase in property taxes that just occurred naturally. I'm certainly not ready tonight to adopt this. I hope we leave this on this reading and then Tuesday night we go to the second reading.

Most of the people I've talked to though have pointed out all the positives about this project and how they will benefit from it. I just want to make sure before we adopt these boundaries, particularly the residential boundaries. That's really the only thing that I've got any concerns about that are in Ward 1.

There's a lot of questions I have and I think the public does too but I think it does all boil back down to the project plan which I think its finally been drove in our heads that that's not what we're looking at tonight.

Mayor Coody: Thank you. Anyone else want to make a comment? Yes sir.

Alderman Marr: Thank you mayor. I struggle with the fact that how do you define what a boundary should be without having some idea of what concepts you were talking about and I think I've voiced that. I decided to go back and kind of read the law again and get hopefully a better feel for what was the purpose of the two phases, why are they separated, if in fact they are. I think what happens is we get an idea of a project first and then are asked at establishing the TIF as a boundary to help not only that project but other things that may happened like our Downtown Master Study. What I tried to say is forget that I know about the project and if I look at what we should be establishing in terms of a boundary our ordinance that we're passing was pretty clear about what that was. Do we believe that whatever area we're talking about needs to eliminate and prevent a development? I'm going to take out the word blighted for a minute and start from a lesser word of deteriorated or deteriorating areas that we would also be looking at in that area as to discourage the loss of commerce and the loss of employment and have the opportunity for increased employment or a combination of those thereof.

Since we started the prior City Council meeting with a discussion about a lease in the center of our square, we had an alderman go through all the vacate spaces that are beginning to develop. We heard also Tuesday night about the number of properties that are becoming open and so I would say that while we started with one deteriorated property that that is spreading. In my mind I would also go back too and say we've had other potential decreases in economic issues. We have a grocery store that use to be open 24 hours and now they're open less than 24 hours on the northern end of the boundary that we are talking about. On the south end of the boundary we have ever since I've been on this Council, talked about redevelopment of south Fayetteville. That's a long stretch and certainly the point of where you start entering our downtown core, what I would call the south end of the boundary.

I think that we have an opportunity for increasing employment, discouraging deterioration, reducing loss of commerce by the boundary we're talking about, I do think it's appropriate. I would agree that there may be some tweaking related to residential areas but when I look at this boundary from the very northern part to the very southern part of it I think there's opportunity to do the things that are listed in this particular ordinance.

I would agree with the gentleman who stood up spoke and said you know *"if you don't have a plan how did you get three million dollars?"* because I think he's right. How can you talk about a number when you haven't even talked about a plan? We have what is probably a pretty appealing plan to us because most people want the Mountain Inn fixed or that corner fixed there's a lot of discussion about that property. Even the design they talked about, while I looked at it and thought this is great I got calls today about is it too tall. Is it this, is it that, you're going to have a process about the development process.

On the boundary piece of it that we're talking about tonight versus the plan, what makes me interested in it is are there other areas of Fayetteville that I think would meet all these areas better. Would I have a different TIF location. We talked about down to Cato Springs, twenty years ago it might have been Dixon Street. What if we would have had an opportunity to have a TIF on that and what the increment would have been with what has happened privately there. I think this very much warrants us looking at establishing the district.

I'm not interested in financial risk. Thank god I wasn't on this Council when the incinerator happened. I want us to do what is right but I truly think it's a good plan. I think it meets these requirements that we're asked to look at and if I were going to use a project plan in my mind to determine the boundary, the only project plan I have to look at right now, even though I've heard the Mountain Inn, is really our Downtown Master Plan. I went back and I read that and it had six basic principles: *superbly walkable environment, downtown living, smart parking, special places, experience based economy*. This district could address all six of those in some way. It certainly would make College, which what we're talking about in terms infrastructure, more walkable. That it accesses the eastside of College to the Westside of College then I think we've got to pause a bit.

A project that we've heard in this boundary talks about parking decks which gives parking in this area. We heard that this not only a hotel but office space and condos and other things so we have a liveable piece to it. Special places, if the Mountain Inn which was a place keeper, it has an opportunity to do that. Experienced based economy, well certainly you will come downtown if you have something to experience and if you don't then you won't be down there.

I'm certainly interested in anything that we can do to continue to revitalize and pull back into the core of our town things, particularly in a ward that I represent which is where a big part of this is. I would even encourage not only naming, I know we've used kind of a East 71 and the East Square but I really think of this as a College tax incremental finance area because we are really talking about College Avenue. Infrastructure for the majority of the money and the building we've talking about putting in as our place keeper is really on the corner of College and Mountain.

Those are my comments; I think it's a good idea. I haven't heard a reason why we shouldn't be at least investigating it and moving forward to hearing more about what the plan would be and looking at the financial feasibility of it. I believe that this district meets these requirements. I don't believe that the blue area we represented on Tuesday does that. I truly do not which is why I said then and still believe today I would not support adding that to this boundary. Thank you.

Mayor Coody: I don't think anyone would support adding that. Anyone else have any comments or questions for the Council. John I've got a couple of questions for you if you don't mind. I know that you were involved with the city about the boundary here.

John Knock: Yes.

Mayor Coody: According to the boundary, what is the relationship between the boundary and the three million dollars can you in quick terms explain that.

John Knock: The boundary itself produces a certain amount of revenue, the schedules that we referred to on Tuesday night are certainly available to look at. For the maximum amount of incremental allowed under state law, the maximum growth allowed in collections is 10%. Considering all of these properties that we talked about earlier tonight they still only generate a certain amount of dollars, approximately \$40,000 to \$42,000 right in that range, I don't have my notes in front of me, that's without the improvement of the Mountain Inn that includes no future development.

Obviously you do a catalyst and you do a tax increment financing district with the hope that it will generate additional monies. Because the growth is in a triangular fashion starting out with low dollars first and larger dollars in later years, any financing you do is bound by the amount of collections and the amount of debt service you can do. Secondly, even if you said okay we need more money so let's make it a bigger district, too large is unmanageable, so you also have to go back to the core. What we we're looking at was marrying the catalyst project with the Dover Kohl study of the Downtown Master Plan.

There are four or five factors, one is the size of the district and what it would generate, then once you look at the impact area, because the statute is very clear, there must be a benefit for all property owners. Although we heard it said from the aldermen, I appreciate it, that needs to be primarily College Avenue, you have to be careful because all of the property owners inside of that area need to have an impact in a positive way. It may be simply be sidewalks or landscaping or lighting but there should be some continuity of those benefits, so that has to be considered.

The second thing that has to be considered is because we're downtown, unlike Rogers which is along a corridor of Interstate 540 and as I pointed out earlier some 80 or 90 units inside this area are already exempt, so those units don't pay any taxes. All those things had to be considered.

The other thing that the City Attorney said earlier that there are only certain qualified dollars, qualified expenditures that can meet the TIF line items. The statutes are very clear, you can't go and build a hotel per say with TIF money, but there are certain things that can be done to get it ready for that. There are certain "public" uses that can be done from cityscape, streetscape, excavation, renovation, excuse me, demolition and acquisition, if you add all those things up our preliminary value shows that those numbers could be in excess of five million dollars. All the acquisition, renovation, additional parking structures and all those things that are necessary. Even at five million dollars though this will not support that and so going back with prudent financial models you would never have tried to propose something that the district itself would not support on a conservative basis. The three million was a number derived after what was, what could be qualified expenditures, and also what the project would cover less the exemptions on a fairly reasonable dollar as given to us by the county on what those dollars might be. You don't just pick a number and say that's the number, it has to be based on many factors and those are about five or six of those factors.

Mayor Coody: Alright so I want to make this clear. If the TIF would have been in place last year and we saw exactly the same property tax increases that we've seen this year, the difference or the increment would be how much?

John Knock: It was approximately \$42,000.00. I actually have a note here and that was the number that was provided to me by Steve Davis who did the calculation.

Mayor Coody: Alright. I was surprised to find out that it was that little.

John Knock: I think there is an assumption that somehow this is millions of dollars on an annual basis. Please don't let this be forever spoken again, our taxes are fairly level in this area. They're not too high and they produce only a certain amount of dollars. If you're going to just look at the increments, not the tax dollars collected simply that increment, it is not a large amount of money. If we're talking about only five percent growth, its half of the \$40,000.00. Now those numbers obviously grow over time so it becomes an accumulative effect.

As I explained on Tuesday night, you didn't ask this question but I should throw it out there, the three million dollars or the debt service required to service that three million dollars never increases. Once the debt service coverage ratio is met for the project which is standard financial numbers of 125, then all excess dollars, 100% of those go to the infrastructure improvements. The beneficiary is directly to those improvements as outlined in the Downtown Master Plan, streetscapes, lighting, new sidewalks, walkability and other things.

The question came up that we can do other projects, well this will spur additional projects like the redevelopment on Dickson Street has now created a different sense of place than it was several years ago.

Mayor Coody: Any questions for Mr. Knock?

Alderman Jordan: I've got one. John I noticed in here it says you're going to create 125 new jobs. Is that correct?

John Knock: Yes, that's what was given to us by our feasibility expert.

Alderman Jordan: That's good. Jobs are very important to me, also important to me is what do you think these jobs are going to pay? What do you think the average salary is going to be?

John Knock: Well it certainly depends, we had an speaker earlier tonight who manages a good hotel here in town, I'm sure he could address those numbers better. I don't have a breakdown in front of me that I could give you but I'd be more than happy to get that information for you.

Alderman Jordan: I wish you would. I would appreciate that.

John Knock: I bet you that could be given. I would hate to guess on things I don't know.

Alderman Jordan: Okay.

Mayor Coody: Any other questions.

Alderman Thiel: We just keep going beyond just the district here but I wanted you to clarify something you mentioned last night. You talked about the new market tax credit allocation and that's one of the reasons you want this project because that will assist this whole project. It will add what five million dollars to the project?

John Knock: Approximately right.

Alderman Thiel: Is that based on this project, the Mountain Inn being in a TIF, or is it based on a specific amount of funding being made available or both.

John Knock: That's a good question. The calculation of new market tax credits and that is a fairly new tax credit, it has only been around a couple of years, in fact there has only been one full year of allocations, this is the second year of that. It is basically a 39% tax credit which is much different than any other tax incentive. It also has qualified expenditures that are looked at, in this case we're talking about a 22.5 million dollar project, not all of that qualifies under the federal guidelines for new market tax credit. What is looked at is what they call soft money or public money expenditures to help those areas. New market tax credits are not reserved for affluent areas, they're reserved for very much the same thing, projects that would otherwise not occur or projects that need to occur for incentives such as that. In our discussion with Ella Cortez on new market tax credits TIF's are extremely important. Specifically in responding to your question on this project the Mountain Inn has been tried many times and failed. Even recently I was working as a financial advisor two years ago for Ms. Moga who tried to do this project, I finally said there is no way I can get it done. Ultimately the TIF and the amount it provides if it is not there it certainly does not provide in the calculations necessary for the new market tax credits for those to be there.

In other words, they only apply in projects where the economic viability makes sense. They're review is somewhat similar to what your review will be when you do the project plan. It will be do all of these pieces that will be included in this both civically and economically, do they make

sense. If you take the new market tax credits away from the project would we do it, the answer is no, if we take away the TIF project from it would we still do it, no, because they're incrementally related to one another. Just like all types of revenue in our households or in businesses are important, if you take them away the project is just not doable in its current state. Now could something else be done on that property at some point in time, perhaps, but not certainly what we're proposing.

Alderman Thiel: Okay.

Mayor Coody: Any questions or comments?

Mayor Coody: Go ahead Don.

Alderman Marr: John, while I was reading through this Downtown Master Plan it talked about tax incremental financing districts and business improvement districts.

John Knock: Yes.

Alderman Marr: I guess one question that goes through my mind is why is this a better option than the business improvement district?

John Knock: That's a good question. Business improvement districts are special tax districts where you have an additional tax, a new tax. You can create a business improvement district and impose a self-tax upon the members or owners of that district, just like another improvement districts, a business improvement district must be supported, it requires a majority vote of all those property owners. They self-tax based upon some sort of formula, some times it is based upon the values incurred and so it is truly a new tax.

Alderman Marr: It's like the old Dickson Street Improvement District.

John Knock: It is very similar to an improvement district except it has some special circumstances because it is a BID versus a standard property owners improvement district. An improvement district is certainly a new tax although it is a self-tax, a TIF as we talked about before is not a new tax it is a reallocation of certain tax dollars for specific projects.

Mayor Coody: Yes sir.

Alderman Jordan: I noticed that it says on here, John, that you have a residential vacantness. Is that abandon homes or what does that mean?

John Knock: Mr. Jordan I'm really not sure. That what was given to me by the county.

Alderman Jordan: Does anybody know?

Hugh Earnest: No we don't. What we did is we got from that from Washington County. That's the tax assessor records. We wondered the same thing ourselves. I will check with the assessor to see if there could be a further explanation.

Mayor Coody: There might have been just lots.

Alderman Jordan: Well that's what I'm asking.

Hugh Earnest: It maybe something as simple as a lot.

John Knock: Another thing that we do have available, we have a stack of papers about this thick of every property owner and every lot parcel that could be provided as well.

Alderman Thiel: It's probably just a vacate lot. Remember these, if they wrote these down by lots, are very small lots.

Hugh Earnest: Yes.

Alderman Jordan: Yes. I'm sorry I'm just trying to figure what all this means.

Alderman Thiel: Some of these are not even buildable they're so small.

Kit Williams: I know one thing, there is no home on it.

Alderman Thiel: Right.

John Knock: It was provided to us by the county and further identified through the city. Every property owner of course in order to receive the publication of this potential TIF district and those could be made available I'm certain, to the Council to review.

Alderman Thiel: The names of every one.

John Knock: Names and parcels and I believe also the assessed values are listed as well.

Alderman Jordan: Let's assume that some of these are older abandoned homes shall we say or vacant homes, what can we do with those is there anything or do we just take them down or what do we do in that kind of situation?

Mayor Coody: That would be entirely up to the Council wouldn't it?

Alderman Jordan: Well that's what I'm asking.

Mayor Coody: No one has the power of condemnation except for us. We have that power now and that doesn't change.

John Knock: If I could just mention one thing. The "plan" as we keep referring to which there is a draft of that plan could be made available fairly quickly once this is adopted.

Alderman Jordan: Okay.

John Knock: Even before that if you have ideas or questions, because you can't create the plan until you know you are going to have district.

Alderman Jordan: I understand.

John Knock: The plan is very specific. It says you can't do anything unless you authorize it.

Mayor Coody: Alright anything else?

Alderman Reynolds: As long as we're talking about the boundary lines tonight I have no questions.

Mayor Coody: Alright, thank you very much. I appreciate everyone coming out tonight. We will have the second reading of this I'm assuming at the next City Council meeting is that right.

Kit Williams: Tuesday.

Mayor Coody: Tuesday night. So will this be under New Business or Old Business?

Kit Williams: Its Old Business.

Mayor Coody: This will be at the next meeting. If anyone is interested at home that wants to come up and speak their peace on this it will be at the next City Council meeting. So we invite everyone to come please make their opinions known. Thank you and good night. Meeting is adjourned.

Meeting adjourned at 7:30 p.m.

Sondra Smith
City Clerk

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Special City Council
Meeting Minutes
November 30, 2004**

A Special Meeting of the Fayetteville City Council was held on November 30, 2004 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Thiel

Pledge of Allegiance

Mayor: I want to add something to the agenda tonight so we'll need to suspend the rules and add this ordinance to the agenda for tonight's meeting. I entertain a motion to suspend the rules.

Alderman Lucas moved to add the Highway 71 East Square Redevelopment District Project Plan Adoption Ordinance to the Agenda. Alderman Reynolds seconded the motion.

Mayor: And we have a motion and second to suspend the rules and add the ordinance for the TIF to the agenda. Shall the motion pass?

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

Highway 71 East Square Redevelopment District Project Plan Adoption: An ordinance adopting the Project Plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan.

Mr. Williams read the ordinance

A Public Hearing on the Proposed Project Plan for the Highway 71 East Square Redevelopment District Number One: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the proposed project plan for the Highway 71 East Square Redevelopment District Number One.

Mayor Coody: Thank you very much. Do we have any comments on the ordinance that was just read?

We have a public hearing tonight and as people come up to speak about this I am going to ask everyone to please sign in since this is a formal public hearing process.

Now then we want to hear a presentation from Mr. Earnest to open up the conversation.

Hugh Earnest: Thank you Mr. Mayor and members of the Council. As you know city staff has been working since last summer with a very committed team of developers on a project that all parties have recognized as difficult and time consuming. This project which you will be accepting public comment on tonight has had as its primary focus the removal of an acknowledged blight namely the long abandoned Mountain Inn.

In addition, as funding is available the project plan recommends a series of streetscape improvements within the district itself. The staff is recommending the adoption of the project plan copies of which has been available for two weeks for public consumption and has been furnished to all members of the Council.

The plan itself consists of two phases listed on page 14 of the plan. Phase I is the Process of Removing Blight in the former Mountain Inn area and it's something that we call the catalyst project in this \$3,500,000.00 based on 2004 dollars.

Phase II, Cityscape Improvements will be a ten year project for \$7,116,000.00. The project plan anticipates, at lease before amendments that the Council can make at anytime during the process, \$10,616,000.00.

As we stated in the transmittal letter to you we've asked Mr. Bob Wright from Crews & Associates to attend tonight's meeting. He has a brief statement for the record that he read and is prepared to answer any and all questions relative to where we stand relative to financing. However before he talks I've asked Mr. John Nock to briefly cover Phase I of the project plan.

Phase I is what we call in the catalyst project which is the activities associated with the removal of the Mountain Inn. Tim Conklin will briefly summarize Phase II and then we'll ask Mr. Wright to be available to answer any and all questions and obviously I hope there are some comments from the public.

John Nock: Thank you. The project plan coincides with the public discussions that happened several months ago. As you have had an opportunity to read the items listed in here this outlines both Phase I and Phase II. I've been asked to talk to you little bit about the removal of blight. What we have looked at is only those issues that will be of public nature for the proposed project. Although we are referring to the new project of 22.5 million dollars as being the catalyst project, 3.5 million dollars will be to remove the blight, acquisition costs and other necessary sight expenditures. You can look in the project plan on page 5 through page 10 to see how that is set up. I won't go through all those details. It certainly is available for the public to read as well. I wanted to point out just a couple of points starting on page 8. I'd like to read from a statute that says: redevelopment project needs undertaking for eliminating or preventing the development or spread of slums or deteriorating or blighted areas, for discouraging the loss of commerce, industry or employment or the increasing or any combination thereof.

What we are referring to as the catalyst project or removal of the blight in the redevelopment of the Mountain Inn site included some of the things that you've read in the press before. Let me just address them again.

We are anticipating a 144 room hotel with 12,500 square feet of meeting space. We're talking about three floors of condominiums for private residential use. We also have the plans to build a parking structure on the site of the existing parking structure from adjoining areas so that it will be functional. Currently it is designed as a motor lodge and you have to drive into the existing structure to get into the existing parking deck. Obviously that will change when we bring down the existing addition to the Mountain Inn that currently exists on the corner of College and Mountain. The new parking deck is anticipated to have approximately 350 spaces.

We are also talking about the removal of certain environmental concerns that are in the air. We've had several professional outfits come in to look at what needs to be done for remediation of asbestos and other environmental hazards that exist in the building as well as other materials that are classified to go into a Class Four landfill. We've had to certainly make sure of that.

You can see on page 9 the expenditures how they're listed in the property assembly cost. You can also see the demolishing of site preparation that is being used here as well.

On page 10 you can see an aerial photograph of how this works with the meeting facilities on the corner of Center and College and then you can see the existing hotel will be torn down on the corner and the new main building will be built on that corner site.

The direct economic impacts are also outlined on page 10 which are important to point out. Its determined that approximately 125 permanent new jobs will be created in connection with the catalyst project and construction jobs are estimated at 55 in the local market alone. There would also be an increase in demand of consumer goods during the construction period. This will

improve property values upon removal of the blight. This will be a tourist attraction and will draw tourist dollars to Fayetteville, the convention meeting spaces will attract additional conventions, increase the catalyst for additional redevelopment along College/Archibald Yell Streets. It will promote additional downtown living thereby adding vitality to Fayetteville's downtown economy and then of course two specific numbers, new tax revenues estimated on this project alone of \$153,000.00 in sales tax a year and under HMR an approximate \$60,000.00 estimated annually as well.

In our portion of the project plan we have had quite a bit of impact from not only professionals but city staff as well as the city attorney to make sure that we were in compliance with the statute, not only the letter of law as outlined in the Tax Increment Financing but also what has been referred to in the media as the spirit of the law. That was in fact the removal of blight and being able to promote again a quality of life that Fayetteville has gained the reputation to have. We appreciate the opportunity to be involved with the plan and are certainly available for any comments or questions.

Mayor Coody: Thank you.

Tim Conklin: Mayor, members of the Council. I'll briefly go over the public improvement or the Phase II portion of this project plan. City staff looked at Dickson Street as a guide or a model to look at where we would enhance our streetscape within our downtown TIF area.

If you'll look at page 13 we have a couple of maps there showing which streets would be enhanced. Looking at the table, College Avenue, Mountain to Maple, Center Street, College to East Mountain Street, College to East, the downtown square which is in need of repair of the deteriorating sidewalks, Block Avenue, Center to Spring and Block Avenue does end at Spring Street because that is where the project boundary ends as part of this 71 East Square TIF.

Staff is working on an additional TIF district for the remainder of the Downtown Master Plan area that portion of Block Street would be picked up within that potential TIF if City Council approves that plan, also School Avenue and Prairie to our TIF boundary. So we have improvements once again based on using Dickson Street as a model looking at street trees, street lighting, replacement of curb and gutter, replacement of sidewalks, overlay of the streets where necessary up around where the Mountain Inn project will be constructed, around the square, down Block Street and up College Avenue to Maple.

In the south part of the TIF district we are looking at how to enhance that entry way into our downtown and that is on School Avenue south of Sixth Street and up north to where we recently did the major intersection realignment and enhancement project on School and Archibald Yell.

Estimated project cost is \$6,696,000.00. Those are the public improvements that would be Phase II as part of this project plan. Thank you.

Bob Wright: Good evening. I'm Bob Wright with Crews & Associates of Little Rock. As you're probably aware we've been retained as financial advisor on this TIF project for the City of Fayetteville.

This is the first opportunity I've had to come before you as a full Council to give you an update as to what we've been doing. Rest assured that we have been working numerous untold hours and dozens of meetings with the Mayor, staff, the developers and your bond counsel in Little Rock in getting to this point to present this project plan.

I've handed out a memo basically for the record giving you an update where we stand. Part of the project plan and part of the difficulty in presenting the plan is coming up with the financial section, the financing that we were looking at. We're currently working the City of Rogers on their big TIF plan and are going to be presenting that project plan in a couple of weeks. We've already done that for the City of Jonesboro. We're acting in the same capacity. We're also working with North Little Rock. So I'm very involved with the process of getting to this point of presenting the plan. It's difficult to get an accurate gauge of what the financial package is going to look like because we're looking at a number of months into the future.

We are very comfortable in the fact that we think we can get the Phase I as has been talked about tonight, the catalyst, get that financed. We don't see that that's going to be a problem in the very near future. We're continuing to analysis numerous other financial scenarios, revenue projections and such to look and see about Phase II when that might come about with the available revenues and such. We think that at your meeting on the 21st of December, we should be able to come back with what we think is a pretty detailed projected plan of what Phase I financing will look like and possible Phase II series of financings in the future.

I certainly would like to answer any questions tonight from you or the public, and then certainly plan to be back in two or three weeks at your regular Council meeting to give a further update. That's what we're looking at.

Mayor Coody: I want to ask a couple of quick questions or two. To outline the perimeters which you used to come up with these figures, how would you describe your perspective when you put together this, especially the Phase I part, the \$3.5 million dollars? How conservative were you when you came up with these figures.

Mr. Wright: This is the process we're in. We've got to be extremely conservative in making our projections. I know that what is in the project plan one scenario we've studied in depth might provide upwards of six, six and half million dollars in available proceeds to date, but there are numerous other factors that come into that. We take the conservative, the ultra conservative approach in coming to you tonight to say we think we're comfortable with the 3.5 million dollars to get the catalyst done but we think we need to be cautious in moving forward on Phase II to make sure we get the most efficient structure in place, not only for today but long term. For this we're looking for the life of the TIF and we need to maximize what's available out there. To get all the bonds paid off as soon as possible we have to mix all that in the best possible way for the City of Fayetteville. So to answer your question, we've been very cautious. That's why we're saying right now, Phase I is probably what we need to be focusing on and come back at a later date and start looking at the Phase II opportunities.

Mayor Coody: So as I understand from earlier conversations I want the Council, the public and everyone at home that is interested in this to be aware of how conservative this budgeting process was, or this projection was. These were based on, and I want you to explain, you'll explain better than I, the fact, the projections were based on the assumptions that this project didn't spur development and that we basically just capitalized on the same rate of growth we've experienced with no real spurt of growth involved with this. Isn't that right?

Mr. Wright: Exactly. Part of the project plan you'll see is an analysis from the Sam Walton School of Business. They've done the revenue projections and the projected growth of the property value within the TIF district. What is not included in those projections are namely the Phase I, the catalyst Mountain Inn project, approximately a \$22 million dollar project that will almost immediately when built generate tax revenues to go towards paying back future debt, not included is the new building going in on College Avenue. Everything else that is in the district that is planned or currently in the process which is upwards in 60 million dollars, all the revenues that are going to be generated from that are not being used in our calculations toward begin able to fund Phase I and Phase II. You never know what the future holds so you're not really sure if the Mountain Inn project gets delayed six months or a year and you've based your calculations on that being in place on a specific date that's where you run into some difficulties so we take the cautious approach. We don't include any of these projects at this point. We will certainly add them in to do some revenue calculations, some possibilities to come back to you and to say if this holds true this is what we're looking at. That's the same thing we did at Rogers. If a billion dollars worth of projects over the next four years come into play we're going to do 60 million dollars worth of debt. So you really have to plan, what do we have in place, let's use the growth that's existing now and take that conservative approach then if these projects come in line which we expect, here's what will possibly happen, here's how the debt will pay off, here's the other phases that we can bring on line at some point in the future.

Mayor Coody: Okay. Do we have any questions from the Council?

Alderman Marr: I have some questions. I want to make sure I understood your comments. So you're using exactly the same methodology for this that you used in Rogers. This ultra conservatism that you're talking about in terms of these projections because the article in the paper and the information that's out today on the Rogers' TIF certainly doesn't say that it would be an ultra-conservative approach. They're using the development community feedback in anticipated growth of those projects but I'm hearing from you we are not doing that. Why is it? It appears to be different.

Mr. Wright: It is. Rogers and Fayetteville as far as looking at the financing opportunities is totally night and day.

Fayetteville, the revenue projections that we've got right now are based on the current value of the TIF district which is 16.6 million dollars as the base value and then the growth that has occurred in the TIF district over time will generate these excess revenues that will be applied to debt. One of the problems that we face on these projects, unlike Rogers, we've got one, two maybe three major projects coming into the TIF district that we know will generate revenues. The timing of those is a little bit questionable. When is the old library going to be done? When

is the Mountain Inn project going to be done? So when are those revenues coming in? We can make projections but again if we miss that by 6 to 9 to 12 months, the area projections are off as far as the financing.

Regarding Rogers it didn't get into the paper, as far as what I talked with the reporter for over an hour yesterday, we took an extremely conservative approach there as well. But it is different in that we are not looking at the growth of Rogers; we're looking at these developers say that a billion dollars worth of projects are coming in over a four year period. We're not doing all that financing from day one. We're doing financing in 2005 based on what is already being built and will be completed in 2005. So we know that we've got a captured value that will generate revenue by October 15th of 2007. There's my revenue stream and off I go. That's already being built.

Here is the Fayetteville TIF area we're using the growth of the district itself but again since we don't have a date certain on the Mountain Inn as far as when it's going to be built. I don't have a date certain on the library, I don't have a date certain on the project on College and those are the three to my knowledge, the three big projects coming in at this point. That's why we have not used those calculations as far as a revenue generating source. Unlike Rogers where we know something is going to be built in 2005, in 2006, etc.

Alderman Marr: If you did have a date certain, if they were on the same 2007 plan that if we were in Rogers, let's say that we had that information. Would your expectation be the same that we'd only feel secure about the first 3.5 million and not the total.

Mr. Wright: If we knew the Mountain Inn was coming and would be completed in 2005 for instance, so we'd have revenues in 2007, then sure we could look at a much more secure financing for the 3.5 million dollars potentially adding in a smaller increment above that to start in some streetscape and landscaping and such. But also our calculations would say, we could come back in three or four years and do an additional series of bonds to start in on Phases II streetscape and such like that.

So as we stand here tonight as we don't know that date certain. John and Rich can address that they are a lot more certain as when they expect that to come in. But that process is still ongoing that's why we've not included that in the revenue projects to give you a false hope that we going to come in with 6 or 7 million dollars worth of debt right now and you can do all the streetscape today. Whereas we truly feel the conservative approach, we're probably looking at Phase II a couple of years down the road.

Alderman Marr: May I ask one more question. The six million dollar portion of this is in today's dollars.

Mr. Wright: That's correct. The six million in streetscape in Phase II is in today's dollars, you're correct.

Alderman Rhoads: For some reason the Mountain Inn project does not get built as currently planned and the City razes that property, then do you believe that that property has a certain

value to it that can be built within the life of this, within the next 25 years and take care of the needs to service the bond.

Mr. Wright: Do I think that the property as what's being proposed, the hotel condominium?

Alderman Rhoads: Does not get built for some reason.

Mr. Wright: Does the TIF itself have the economic ability to handle the debt? Yes, without the Mountain Inn project, yes.

Alderman Rhoads: If the current project doesn't get built but some other project of a similar nature then that's just gravy?

Mr. Wright: Then that's just gravy and that's why we're presenting tonight, it is uncertain. I'm not on the hotel financing side even though we've done some hotel financing. We've done the Hilton which was a shutdown hotel in Little Rock, we've done the financing. I know what is involved in getting those done, it's a difficult process. They've put their time in. They've been working on that but since that is uncertain I want to make sure that getting that blighted area out of there in that catalyst to get that property cleared can still maintain and amortize itself without this 20 million dollars, 22 million dollars project sitting on top. So it's not contingent upon that project. It's not contingent upon the library or the other project on College. It's contingent on what's there now. The historical growth that's there based on what the school is telling us that's presented. I've already gotten that schedule into our computer and been running some stress tests on that as far as property growth to see what happens to the debt if it goes at eight percent or six percent annual growth for twenty something years instead of the projected nine something percent growth as has been historical. We'd be doing all those stress tests to make sure that no matter how we look into that crystal ball, no matter what happens without these other projects, this 3.5 million dollars to secure that site and demolish it, get it out of here is going to be a very secure financing for the City of Fayetteville. That's what we're here for and as you said those projects that come on and generate additional revenues a lot quicker than what we're projecting then that's gravy. We're doing Phase II a lot quicker if it generates even more than we're anticipating we can do further projects over and above what we're looking at. But at that point it will be up to the Council's desire, do you want to get the debt out of the way or close the TIF down or do you what to do additional projects. That's a question to be answered in 20 years.

Mayor Coody: I don't think there will be any of us of up here answering that question 20 years from now. Any other questions for Mr. Wright. Thank you very much.

Mr. Wright: I appreciate ya'll.

Mayor Coody: Anyone from the public want to comment on this? I might ask you to sign in please. How are you tonight Linda.

Linda Ralston: Good evening. Thinking topical tonight. Staying warm. Linda Ralston. I've been following the TIF process I guess since we've kind of started all this. I guess I'm still feeling a little uneasy about how things kind of work and I know this is new for all of us.

Needless to say I'm a little concerned just jumping ahead. I know you all are going to be talking about the second TIF district in a couple of weeks and I'd like to see if this one works first.

I know things will be changing at the legislature potentially so there seems to be a big rush and again I'm feeling a certain amount of discomfort. I wrote down a couple of thoughts that maybe someone can answer.

I came in a couple of minutes late so I may have missed this. If it could be clarified as to how the razing of the building actually happens. I was still unclear as to where that money, I guess it is all a matter of timing. I'm concerned if the City will be out any money, do we own it? I think we've had this dialogue before, Kit. Do we have to buy the property and then we raze it as a City and then the developers buy it back and there's some puzzle pieces in here I know that are quite intricate. I was just wondering if there is any potential for the City to fall into a gap of timing, of financing as things move forward. So if there is anyone that can comment to that.

Mayor Coody: I think Kit would probably be the one to comment on that.

Kit Williams: My understanding would be that none of the purchases or demolishing or anything like that would be done until the City has received the money from Tax Incremental Financing Bonds that 3.5 million dollars that was just spoken about. There is a bucket in the plan to purchase the property and to demolish the property within this 3.5 million dollars.

At that point, as you say, I think you encapsulated it pretty well, the City would then sell the property at an appraised price to the developer so that they could then build their project.

Ms. Ralston: I know before it was mentioned that maybe it could be a Holiday Inn Crown Plaza and in talking to one of the developers that would probably not be the case. The Crown Plaza and Holiday Inn has certain guidelines that would not allow for condominiums up on top or other special things that will make this property more unique and special then maybe the next Crown Plaza might be.

Also in reading tonight's paper it talks about allocating money that involves 71 Business and maybe I need to learn more about the highway department and how that money gets allocated. I know we can include it in the plan but does the diversion of the tax money actually go to pay part of or all of?

Mayor Coody: As we've been talking about Phase I and Phase II. Phase I is basically just the structural building part of the Mountain Inn and the surrounding building to take those down.

Phase II would be the public domain improvements, that would be streetscape, sidewalks, street planning, landscaping, water/sewer lines. All the public domain will be Phase II.

Phase I is something that we can do right away. As you heard the ultra conservative approach that our bond counsel took to make sure that Phase I would pay for itself even the worse case scenario it would cover its notes adequately. Then we would see if things improve or if things

go as well as we expect then we would have money to do Phase II which would be the public domain improvements.

To do improvements to College Avenue for example, we work well with the highway department. We would be able to use some of this Tax Increment Financing money to improve parts of College Avenue, along the sidewalks, in the surrounding environs of the project, trees, sidewalks, all that.

So it would be Phase I now and Phase II in the near future or some time in the near future.

Ms. Ralston: Which can be confusing as you all know because we went through out first public hearing and in my mind I labeled that kind of Phase I. Now we're talking Phase I and Phase II as far as Phase II is concerned maybe.

This is actually Phase II that we're in right now, right?

Mayor Coody: No. Phase I would be the first thing we would do that would be just the Mountain Inn building project and the buildings adjacent to it, adjoining it.

Ms. Ralston: Okay.

Alderman Marr: Mayor I think what she is referring to is that the first step was to establish the boundary which we did.

Ms. Ralston: Right.

Alderman Marr: The second step is to approve the plan which is where we are and the plan has two phases.

Mayor Coody: Is that right. Oh, excuse me.

Ms. Ralston: So anyway I noticed again the eminent domain, I know that's not part of what we're talking about tonight. One more questions though and I'll take my seat on this one.

I've left a message before in regards, actually I called John Nock's office, I've had a financial background and I was just curious as to how monies get paid commission wise on the financial package? As we put all these in the new market tax credits how do the monies actually get paid commission wise for any of our advisors, even Mr. Nock. I was curious on that, maybe they can address that. Thank you.

Mayor Coody: Mr. Wright, where are you. Why don't you address the last question please.

Mr. Wright: From my perspective acting as financial advisor for the City of Fayetteville you're getting a pretty good deal. It's actually not charging them anything with all the hours we've put into it, there has been no costs. The city staff asked me to put together an engagement letter for what I thought the time cost would be. I offered up our services just knowing the importance of

this and all the time and effort needed for this, we don't need to get sticklers for a couple thousand dollars here and there.

If there are TIF bonds issued at that point, an underwriter fee would be paid to the underwriter which the City would engage us or whomever to act as underwriter for the bond issue. The fees would be built into the bond issue itself. As far as the new market tax credits I would have to ask Mr. Nock to answer that, but all of the services up to this point and going forward even if this project doesn't work is not going to cost the City anything.

Mayor Coody: Does that answer your questions Linda?

Ms. Ralston: I would love to hear Mr. Nock's comments.

Mr. Nock: It maybe difficult to understand it, even though I am an investment banker by professional I'm acting as a developer of this project and so any advice that I give to my partners or things that I say to the City that maybe related to public finance those are all free dollars. Sometimes you might get what you pay for. Whatever I might do working with Crews & Associates, helping them and making suggestions that is simply my role as a developer.

New market tax credits. We are the recipients of new market tax credits therefore those go into the project and there are no fees that are paid by either principle or agent. Those are given to CDE's, in our case it's the Heartland Renaissance Fund in Little Rock.

Mayor Coody: Define CDE's please.

Mr. Nock: Community Development Enterprise which is a federally recognized organization that distributes new market tax credits from the Treasure Department. We have no direct connection with those except hopefully getting the benefit of having the project built and making a long term success out of it and making money. As far as fees, we act as principle as developers thereby taking a risk on the project but it should not be misconstrued with my other activities as an investment banker. To other cities and other activities I am not an investment banker, financial advisor or underwriter for the City of Fayetteville. None of those things do I act in. Its simply that I do that in my profession and certainly comes into play on occasion to be able to talk the same language that those that are called to be professionals and hired to be professionals by the City that they know those things and that I would talk about as well. Any other questions?

Mayor Coody: Does that answer your question Linda? Does anyone else have any questions for anyone that we've heard from so far. Anyone else in the public want to address us on this? How are you Alan?

Alan Ostner: Hi, I'm Alan Ostner, 312 S. Block, I'm here as a resident, I'm within the TIF boundary. Some of the things I've heard tonight really put me at ease as Ms. Ralston mentioned the ability of the governing body, probably not you all, but the ability of this body to declare eminent domain with a development scares me and it scares most of the people that I live near in the neighborhood. As Mr. Williams was reading at the beginning of the meeting the actual ordinance we're considering, said that no persons are intended to be displaced. That sets me at

ease, that it is being put down as a rule that is not what you are here to do. That's the first thing I wanted to talk about.

The other items are very rudimentary. They have nothing to do with financing. As a neighbor of the TIF district, the parking structure that will be in the hotel I'm wondering who can park there? Is it only the hotel occupants, is it only the downtown consumers or visitors or is it somewhat a public facility open to the neighborhood or the downtown area to use? I know it's a private parking deck but I was just wondering what the plans were for that. I know a lot of people who live down here that are interested too and a lot of people who work down here.

The other question I had was on Phase II any kind of projected time line or at the very least a prioritized list of the street improvements, trees, lights, all the things on that list. When the debt service gets satisfied on Phase I and it comes around for Phase II, what's first? Which areas are going to get worked on first? That was my question on that item.

I'm sorry I had another question. I was very pleased to hear that the numbers from Crews & Associates were so conservative and please correct me if I'm wrong, they are so conservative that are basically based on the Mountain Inn not getting built. The replaced Mountain Inn? Was I clear on that?

Mayor Coody: Yes.

Mr. Ostner: I think that was good prudent financial planning. It must be awkward for Mr. Nock to deal with this situation and plan on his project failing and I applaud you for that. It's almost like buying insurance.

Mayor Coody: I don't think he's planning to fail.

Mr. Ostner: Of course not but that's what that conversation had to be about. I wanted to ask, the numbers again, Phase I is listed at 3.5 million dollars and if I understand that, basically the City would purchase the Mountain Inn building, destroy it, and sell a vacate lot to the developer for the appraised value at that time.

Mayor Coody: Yes.

Mr. Ostner: Is that the way it's going to work?

Kit Williams: Oh no, actually we're going to be buying four buildings, the Courts Building, the Mountain Inn, the Redbird and the former Niblock Law Office. So there would be four properties that would be purchased not just one.

Mr. Ostner: The building that they mentioned was going to be the Community Room or the Community Facility was going to be located on the corner of Center and College?

Mr. Wright: Meeting.

Mr. Ostner: Meeting Room, is that the entire building that looks a little bit different from the other buildings? I didn't know that the Mountain Inn went all the way to Center Street. I didn't know this project that the City was looking to demolish went all the way from Mountain to Center. So I was glad to hear that. I think that whole property could use redevelopment.

Thank you for hearing me and I appreciate you efforts.

Mayor Coody: Thank you very much. Mr. Nock I might ask you to respond about the availability of the parking deck to different folks.

John Nock: The parking deck will be built by private funds. We anticipate it being used for multi-purposes including the obvious hotel guests but also we're looking at this facility being adjunct to the Town Center so there would be shared parking between convention facilities to be done here at the City of Fayetteville. Those events will be coordinated with both A&P and the existing Radisson operation as well as residential folks that are going to live in the condominium areas and not in just the new development but also the surrounding areas. Keep in mind the dollars from the Tax Increment Financing is going to build the parking deck that is being built from private sources. However it is important to note that we will have retail shops as part of the project. Those that coming to other spots along that retail corridor, there are some great shops in that area that currently exist right now and I've personally had conversations with those store keepers and they are quite anxious for opportunities where they can get additional parking. Certainly our idea is to do an economic model that also facilitates what's going on in the downtown area.

I think specifically the question was asked can anyone use the parking deck and I think we certainly want as much activity in that area so it's economically viable. You want people to come there, you want people to shop there, you want people that stay at the hotel to utilize it and you want people that are going to live there to have places to park. So it's going to be all of the above. Will it be free parking for anyone to do what ever they want to on or will it be all paid parking? We have completely not determined whether that it is going to be but certainly we have an economic model built upon it. Does that answer that question?

Alderman Rhoads: How many condos in total.

Mr. Nock: We have three floors of condos. Each floor is approximately 9,600 square feet some of the condos maybe larger. There may be some that 1,500 and there are others that may be as much as 4,500 square feet of space.

We originally had talked about between 15 to 18 condos as it turns out there may be less or more than that based upon the pre-sales.

Mayor Coody: Anything else? Thank you, John. Tim or Hugh do you have an answer for the second question which was the time frame and the plan for Phase II.

Tim Conklin: I think that's going to dependent on what happens with our current transportation bill. One of the questions talked about was highway funding and everybody probably read in the

newspaper about the earmarks. Just as we experienced on Dickson Street even with that funding, that 1.5 million dollars, we still put in approximately 3 million dollars into that project. So depending on phasing and what funding comes in from the federal level I think it is going to depend on how fast we pursue these projects. With regard to prioritizing individual projects we've put a list of projects in here. As we talked earlier today with our financial consultant, it's going to depend on how fast the bonds, the debt gets retired and how much increment yield is available for additional bond financing. Based on what happens in our downtown will allow us to do more or less of these projects. So that's really not a clear answer of this street is going to be first or this but I think when we see what happens in our downtown area and the Mountain Inn gets replaced and other building occurs it's going to allow us to do more projects quicker.

Staff looked what were the principle projects within this area that we would recommend to the Council, of course the Council will have to approve these projects as they come forth.

Mayor Coody: Alan does that answer your questions? Anyone else have anything for us tonight? We'll close the public hearing then.

We have, what's the order of business here? What do we need to do next?

Alderman Rhoads: Discuss it among ourselves.

Kit Williams: I think that will probably conclude our business. We should remind everyone though that this ordinance will be on its second reading at our next City Council meeting which is next Tuesday, our first regular meeting in December.

Mayor Coody: Since this is a public hearing would we not go to an internal discussion with the City Council?

Kit Williams: We certainly can.

Mayor Coody: Anyone have anything to add or subtract from the conversations.

Alderman Rhoads: Real quick on parking. Does anyone know what the capacity of the parking deck is at the Town Center and at the Radisson? Just rough numbers.

Hugh Earnest: We'll get that information for you. I want to say 300 and something but that's a guess.

Alderman Rhoads: In total or each.

Hugh Earnest: I don't know.

Alderman Rhoads: How much retail space will be in yours?

Richard Alexander: We haven't decided on that. It depends on how much ground floor the hotel needs to take. We want to build enough parking to satisfy the requirements of whoever our

hotelier is. They will have a requirement and of course we want to have enough for our tenants. We anticipate from our economic model to have parking available for the businesses, law firms, etc.

Kit Williams: Rick you probably need to come up to the mike so that we can hear you.

Richard Alexander: We anticipate about 350 spaces. The hotel will have a requirement, we're talking to different hoteliers, they'll have requirements and that will take up so much of parking. We hope to have additional parking, after we take care of tenants, to also be available to the public for rent or lease. X

Alderman Rhoads: I was doing rough numbers. Parking is a big issue around this town. The way I calculated it once you take out the no vacancies at the hotel plus what the condo folks would use and then some retail I think you're still going have 150 spaces for law firms or other people in the community to use..

Richard Alexander: Exactly.

Alderman Rhoads: If I'm wrong, I hope I'm not wrong but if I'm wrong, I hope you'll let me know.

Richard Alexander: Yes, I think that's accurate. I don't know whether it will be exactly 150 spaces but it might be anywhere between 100 and 150. Our plan has always been to build more than we must need for the hotel and condominiums. Basically a public parking deck.

Alderman Rhoads: I hope that's further comfort to Mr. Ostner. Okay. Thank you.

Mayor Coody: Anyone else? Yes, sir.

Alderman Jordan: The 125 jobs, John maybe you can answer this. We're talking about 125 new jobs.

Mr. Nock: Yes.

Alderman Jordan: Can you tell me what type of jobs those will be.

Mr. Nock: Yeah, let me give you a little background on that. Part of this process was dealing with hoteliers, those that are actually in business to run hotels and those numbers came from one of the consultants that we've been using for the last three years.

It was actually almost exactly to the money that another consultant have given to Mrs. Moga who had worked on this project before us. The makeup is about half of that are fulltime employees, that means that they are receiving 40 hours of work as either a paid or salaried employee. You will have about 10% of them that will be management and then you will have a fair amount of them that will be in the service sector as well. So from that 125 you're going to

have any where, that doesn't just include the hotel, and the service sector that goes with that but it also includes the restaurants as well other secondary pieces that are connected to the facility.

Alderman Jordan: I guess my next question would be then, what do you think would be the average pay. Have there been any studies done on that about the types of jobs and what they will pay. I certainly don't want people working for low wages.

Mr. Nock: I don't know the average on that but I can tell you we investigated multiple facilities around the country from other hoteliers because that was one of the first things that we wanted to look at, what kind of operation. Some of the facilities in the northeast certainly have a different pay scale then those that we looked at in the Texas market for instance.

However there are some pretty strong industry standards, from what I understand that if you're going to be moving to management you get that regardless of whether you're in Arkansas or whether you're in Florida, those are going to be comparable to industry standards. I would only be guessing to tell you what those are but we could certainly find that out.

Alderman Jordan: I wish you would find that out for me. I would appreciate that.

Mr. Nock: It's readily available information.

Alderman Jordan: Richard do you have an answer for me.

Richard Alexander: I think I can answer that because I have a hotel. You're talking about jobs ranging from \$18,000 to \$100,000, from entry level, waiters, waitress, housekeepers, caterers, banquet managers, banquet facility people, restaurant managers, hotel managers, assistance managers, parking lot attendants, all those kind of jobs. At Carnell Hall we're running a pay scale from about \$18,000 to \$60,000 but we're a 50 room hotel. We have about 50 people on staff, some of them are part-time a lot of them are wait staff and students. They're not all full-time but then we have our housekeepers, managers, chefs, and kitchen help that are all full-time.

Alderman Jordan: So we can assume that a worker can start at say \$18,000 or there about?

Richard Alexander: There again it depends on if they are half-time. I think that's probably about the range you're talking about. Because of the tipping nature of the restaurant business I don't how you know what a waiter, waitress' wage is, it's probably minimum wage by definition but they make tips so I don't know how you figure that out.

Alderman Jordan: Also my next question is that I believe that I saw that we have several vacate lots or vacate property?

Richard Alexander: I did a rough estimate, I think there is roughly probably 200,000 square feet of vacate space on that side right now.

Alderman Jordan: What do you think could be done with that? I know that we're projecting down the road.

Richard Alexander: We're talking about developing most of it in this project.

Alderman Jordan: In the businesses?

Richard Alexander: Yeah, in the businesses. I think that the buildings adjacent to this project will come back to life because there will be life in the area and then across the street both ways once you bring life back there I think those buildings will fill back up. We don't intend to develop all of them but I've heard people making plans on the basis of this project coming in that those buildings will take on new life. Currently they're either vacant, we probably have 200,000 square feet of vacate and you probably have 100,000 square feet of under utilized. In other words, very, very low rents that really aren't a good economic model right now but they'll come back to life when you put life in that area again I believe.

Alderman Jordan: Okay. That's all I have.

Mayor Coody: Anything else. Alright, if there's no other further public comment or other City Council comment we will adjourn tonight's meeting and we'll see you at the next City Council meeting. Thank you very much.

Meeting Adjourned at 7:30 PM

Sondra Smith, City Clerk/Treasurer

Dan Coody, Mayor

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**City Council
Meeting Minutes
December 7, 2004**

A meeting of the Fayetteville City Council was held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Mayor Coody presented a plaque to Dawn Warrick, Planning Department for her nine years of service to the City.

Tim Conklin, Planning thanked Dawn for her hard work in the Planning Department.

Airport Board Annual Report: Doc Wallace of the Airport Board gave the 2004 annual report on the airport. He introduced the current Airport Board members to the City Council. He also thanked the staff for their efforts.

Mayor Coody thanked Doc Wallace for his leadership and participation on the Airport Board. He stated he is very pleased with the direction that Drake Field is headed.

Alderman Jordan: I asked for this and was told how to calculate this. I would like to know how much these individuals pay versus how much it cost to serve them.

Mayor Coody: We collect the lowest sales tax of any city in Northwest Arkansas, 1.75 cents instead of the 2 cents that Rogers, Springdale and Bentonville charges. We also do not collect any millage for property tax for operations. Springdale charges 5.7, Bentonville 5.5, Rogers 3.9. and Fayetteville charges zero. We can't continue to expand services. Mayor Coody explained the increase in cost that the city has had this past year in products and services.

Geary Lowery stated he could show the City Council a way to get all the roads in the city repaired.

Mayor Coody asked him to send him a letter.

Alderman Reynolds moved to table the resolution until the December 21, 2004 City Council meeting. **Alderman Odom** seconded the motion. Upon roll call the motion to table passed unanimously.

The Resolution was tabled until the December 21, 2004 City Council meeting.

Highway 71 East Square Redevelopment District Project Plan Adoption: An ordinance adopting the Project plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan. *This ordinance was left on the First Reading at the November 30, 2004 City Council meeting.*

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

Mr. Williams read the ordinance.

Sharon Davidson a resident voiced her concerns on this TIF consuming the time of city employees. She is also voiced her concern about TIF's taking money and resources from various public tax paying entities such as schools and city services. She continued to speak on TIF's in other cities.

Mayor Coody: I might just get you to focus on the Highway 71 East Square TIF.

Sharon Davidson: Excuse me sir this is all relative. I have not been here for a long time and I see no time limit.

Mayor Coody asked if Chief Johnson was at the meeting.

Sharon Davidson left the podium.

Cyrus Young: What you are doing tonight is forming a TIF District is that correct?

Kit Williams: The TIF District has already been formed. Tonight we are approving the Project Plan for the TIF District that was formed previously.

Cyrus Young: The District is formed and that means the base is set for the property taxes right?

Kit Williams: Yes that is part of the Project Plan. The County Assessor fixes the base.

Cyrus Young: Any natural increase in the property taxes over a period of time that goes toward the project is that correct?

Kit Williams: If the project is approved that is correct.

Cyrus Young: You talked about the city buying the property and tearing part of it down so the TIF District would pay the city to do all of this.

Kit Williams: Actually the City would not be doing that the City would be using the TIF bond proceeds to do that. The District is really not separate from the City Council. The City Council controls the TIF District, its funds and the Project Plan, so they make that determination.

Cyrus Young: So this Council will be the Boards of the TIF is that correct?

Kit Williams: That is my understanding, they will control it, I don't know if they are officially a board but they will be controlling the TIF District. The City Council remains in control it is not under control of any other entity.

Cyrus Young: Who will issue the bonds?

Kit Williams: The TIF District will. The bonds are specifically designed by statute as only to be supported by the obligation of the tax increment difference not by the general revenues of the city. The bonds must state on them that they are not a bond that is a debt of the City but is only supported by the tax incremental financing not by the general revenues of the City.

Cyrus Young: The TIF will issue the bonds and the Council is the TIF?

Kit Williams: They control the TIF.

Cyrus Young: They are either the TIF or they aren't. In other words if they are not going to be the TIF than who is going to be the Board of the TIF?

Kit Williams: The statute does not set forth a Board for the TIF District. It does say that the TIF District is controlled by the City Council, they have to do it by ordinance, and they can modify the TIF District borders or the Plan in the future after having public hearings so the City Council remains control over the project but they are not a special TIF District Board.

Cyrus Young: That's the same set up as the incinerator. What happens if no one buys the bonds?

Kit Williams: Then there would be no money in order to do the project.

Cyrus Young: Then would you dissolve the TIF?

Kit Williams: It would be up to the City Council to decide what to do. The legislation indicates that selling bonds is only one of the options, there can be a pay as you go using the tax increment even without bonds.

Alderman Thiel: The city is not going to purchase this property until the bonds are issued, we are not going to purchase this prior to those bonds being issued are we?

Kit Williams: That's correct, in fact I think not only would the bonds have to be issued so that we would have sufficient funds on hand to be able to purchase these buildings and do the demolition. I would also recommend that that we have a very strong contract with the proposed developers to buy the property back from us at fair market value. They would also have to agree to build the project. The primary reason behind this TIF District is to not only to clear this blight but to have something good to replace it with. I don't know if the City would want to buy all these properties if in fact the project was not going to go forward. I would expect to be able to present to you the contract with the developers where they would be contracting and agreeing to buy the property back and to have the project built as part of the whole process.

Alderman Thiel: There is concern about the appraised value of this property after the buildings have been razed and removed. The value is considerably less than the purchase price of the buildings. Would the Council look at a fair market value not necessarily the appraisal the developers obtained for this project.

Kit Williams: I think that's correct. The Project itself does talk about the real property assessment cost and it has those all laid out. It also states *upon completion of removal of the blight the developer will purchase the raw land of the project site at the established appraised fair market value.* We have been offered the appraised fair market value by the appraiser who has been working for the developers. I don't think the City Council is necessarily bound to take that. Keep in mind the reason this project is being proposed is that without some financial help from the tax payers this project would probably not go forward. This building has been sitting there for a long time deteriorating. When we got into this project, it was always assumed that we would lose money on this project by paying more for the cost to acquire and demolish the buildings than we would ever get back from selling the property. However we still want to make sure that you are happy with the appraisals and that you feel like that is in fact a fair market value.

Alderman Thiel: I think the public would need to be assured that ultimately we are getting a value back in the entire area as far as property values going up, enhancing this area and bringing in more tax dollars, all the things this TIF is supposed to do. To assure the public we would be recovering our cost over time. I think the public needs to be reminded again that only the area that's in this TIF is the only area that will be affected as far as taxes.

Kit Williams: The taxes won't be any different for the people that are actually paying them it will just simply be that the TIF District will be allowed to take the amount in excess of the taxes paid each year and use that money for this project. The people paying the taxes won't have to pay anymore with the exception that when property gets more valuable all over the city then the tax payers will be paying a little bit more because their property has gone up in value.

There will be another time that I would want to present a contract to the Council with the developers. I have not begun any type of contractual negotiations with them at this point in time.

At that point in time you will need to weigh in on what you believe is the fair market value and whether or not you approve the contract the city might have with the developers.

John Nock: The statute does allow for the opportunity to purchase and sell back land at a deficit for economic returns. Based upon our calculations the sales tax of approximately \$153,000 annually will be collected just from the project alone of the hotel, not the surrounding developments that are being improved as well. HMR taxes the first year is expected to be \$60,000 with inflation over the next 25 years you are looking at over \$5 million coming in from sales tax and over \$2 million coming in from HMR taxes. The property values currently are approximately \$6,000 in property taxes. Just that project being revitalized will begin to throw off an increase of property taxes to a tune of over \$8 million. On a conservative basis there will be just from the property alone \$15.4 million in tax collections. In addition to that the jobs created from the project and the economic incentive should also be a concern for the city. The mid range job will pay \$30,000 to \$35,000.

Alderman Cook: Where did the demolition and abatement numbers that were included in our plan, where did those numbers come from?

John Nock: We got three separate bids from three separate contractors.

Alderman Marr: What was the spread between the three?

John Nock: Almost a half million dollars. A lot of that was because of the land fill requirements. One of the bidders could satisfy that with a Class IV landfill themselves, the other bidders were assuming they would use the same that the city is using right now which is the only landfill in the area.

Alderman Cook: Are the offer and acceptances on the other pieces of property, are those prices set?

John Nock: TIF's in other parts of the country have utilized condemnation, we went with the notion that condemnation was not going to be something that the City of Fayetteville wanted to utilize so we negotiated what we thought was the appropriate price.

Alderman Cook: What happens if the \$3.5 million is not enough for the initial Phase I, demolition, abatement and assembling the property?

John Nock: As you know the total project is in excess of \$22.5 million. All of the private purposes of the project are being funded by private dollars. The statute is very clear that if you utilize those dollars that are collected through Tax Increment Financing for private purposes the bonds themselves could no longer be tax exempt so we have been very careful of that to market the bonds. We could ask for more money but this is what it would take to get economically the response that we need to get the project done. If there is more that is required then we would pay for it from the private side.

Alderman Cook: Where does the initial investment come from? Is it taxpayers putting the money up or is it the bond proceeds. I think Kit answered that it is the bond proceeds initially.

John Nock: The dollars that we are talking about spending are all coming from bond proceeds that are coming from taxes from property; they are not coming out of the city's General Fund. In fact none of it is coming directly per say from the City of Fayetteville but instead the statue is set up from the state side to reallocate tax dollars as they are already sitting there. They are dollars that are sent back to the City as the governing body for those dollars. They are dollars that otherwise the City would have no control over and would not receive any of those dollars under the current system of collection of taxes.

Kit Williams: As long as the city doesn't have any millage that would be correct.

Alderman Cook: What happens to those bond proceeds if the project goes in the can?

John Nock: Bonds always carry risks that is why they get a favorable or higher interest rate depending on what the project is. In this particular case the bond holder takes the risk, this is not a good faith in credit of the city it is strictly based upon the revenues, therefore the risk goes to the bond holder. There is no consideration, lending or any other good faith from the City of Fayetteville to the bonds.

Alderman Cook: The plan speaks of estimated project and non-project cost, Phase I is the project cost where there any non-project cost that weren't included in this plan.

John Nock: The cost that could occur in projects that are considered no-project cost would be the financing cost and project cost in excess of the \$3.5 million. Those paid professionals the city engages to satisfy that their risk is truly assessed, such as investment bankers, bond counsels and other professionals that need to give you the appropriate comfort level to go forward with the project. The other thing is the feasibility study that was done by the University of Arkansas that is a non-project cost but required by the statue. Cost that are required because this is a TIF project.

Alderman Cook: Are the non-project cost rolled into the TIF bonds?

John Nock: Yes, all project and non-project cost would be rolled into the bond and would not be a secondary cost to the City.

Alderman Cook: Do we have an agreement with the developers that basically says if we buy these properties and prepare them for construction, do we have a contract that states that they will build what they state they will build. I don't want to do all this and then they decide they can't finance this and they want to do something else with it.

Kit Williams: We don't have that in hand yet. That is what I want to protect the city.

John Nock: It has always been our assumption that would be appropriate and we are certainly willing on our side.

Alderman Thiel: Have the bonds been secured, have you found someone that will fund the bonding for this project? Who is required to get the bonding for this the city or the developer?

John Nock: This is not a city backed debt but it is in fact going to be a tax exempt municipal bond. Bonds can not be issued or marketed until they are approved by the Council. I think your

advisor said he was 100% confident that the \$3.5 million was doable. The rest of it they still needed to study and look at those improvements and over time how quickly dollars generated from revenues collected would be satisfactory to cover additional improvements.

Kit Williams: I think that is correct, he wanted this to be in two phases to do the streetscape and Phase II a couple of years down the line after he has seen these projects actually get built and get on line which will make a significant difference in the tax increment. At that point he could come back before the City Council and recommend further bond issuance. This was our financial advisor, Kruse and Associates that spoke to the City Council.

Alderman Reynolds: This map indicates this has a lot of City, County, State and Federal property involved in this District, how is that going to affect the income in this District?

John Nock: Because those properties are tax exempt by nature they don't pay any property tax currently. However some of those properties may sell and become private properties and then they would increase from a zero tax base to a current tax base.

Richard Alexander: This is a four piece puzzle it is not doable without any one of the pieces. The pieces are the TIF District, new market tax credits, sales tax rebates from the State level and private financing. We have to have some idea what the purchase price back to the project is so we can put the funding in place, that's why we got the appraisal. We instructed the appraiser to look at the property as raw dirt in a blighted area, not raw dirt with a \$22 million hotel on it. That came out to about \$6.00 per foot. We purchased recently from the City the old library, that property was appraised pursuant to the city's appraiser at \$6.00 per foot and that is not in a blighted area and had a perfectly nice building on it.

Mr. Alexander spoke of other properties in the area and their value. He stated they are ready, willing and able to do the project.

Alderman Cook: Regarding Phase II our Bond Counsel basically said that the public improvements was up in the air, it depends on how well the TIF goes whether that will be funded and at what level it will be funded. Is that piece of the plan still up for debate? If we vote on this plan as it is what's mentioned in that \$6.5 million is that what's going to be done. If we vote on this plan in front of us is that Phase II spelled out?

Mayor Coody: No, that wouldn't be Phase II spelled out at all.

Kit Williams: Well it is spelled out but the City Council has the right to amend a Project Plan in the future.

Alderman Cook: We have talked about changes to Highway 71 but we have to get approval from AHTD first and they might not agree with that, so we might not be able to do that part of the project. For some people that might not even be their priority, to me this is the carrot for the taxpayers, the public improvements that we can get out of this project. There is no guarantee it will happen.

Mayor Coody: There are a couple of carrots one is the public improvements the other is the removal of the Mountain Inn and the building of a new facility there. We do want to do some public improvements down there but with the ultra conservative approach of the Bond Counsel.

Alderman Thiel: One thing that has concerned me about Phase II of the project is that we have already made a request for funds from the federal government for basically the same project that we are talking about in this. I would be concerned that by doing that through the TIF we would jeopardize getting the federal grant for improvements on College.

Mayor Coody: The appropriations bill will be reviewed by the new congress. There is no guarantee that we will see a penny of that although they are going to be working very hard to keep that appropriation in the bill. The \$4 million that is earmarked currently wouldn't cover the entire project. I don't see these conflicting as much as complementing each other. If there were the funds raised for the public improvement of the TIF, that wouldn't be just for College Avenue that would be for all the areas within the TIF. It would take supplemental funds that the TIF would provide to really finish the job.

Alderman Jordan: The thing I look at when I see this TIF District is we are talking about cleaning blight in an area. We are looking to make things better. If I live near North College and my property taxes are going to be increased, what's in it for me? What can this TIF money be used for.

Alderman Odom: You are only going to be paying higher property taxes because the value of your home is going to be greater.

Alderman Rhoads: If it's your nest egg then you will have a bigger nest egg and better retirement probabilities.

Alderman Marr: To me the other event for the home owner is their ability to go out and do an appraisal at a higher value and borrow money and do more to their home if they want to because they now have a higher basis.

Mayor Coody: Increases for property taxes are capped anyway.

Alderman Jordan: The perception is they are raising my property taxes and building a new hotel and what am I getting out of it.

Alderman Odom: This doesn't actually raise the property taxes. The increase in the value increases your taxes and that's what is going to pay off the TIF bonds.

Kit Williams: The millage rate doesn't change.

Mayor Coody: Property taxes on that same house have been increasing over the years without any improvements. Probably just as quickly as they would with improvements.

Alderman Jordan: I do want us to remember that hopefully some of these funds can be used to improve the District.

Mayor Coody: Yes. Anything in the public domain directly affects that homeowner.

Alderman Jordan: Can any of the funds be used for affordable housing.

Kit Williams: I don't see that as part of the powers in here.

John Nock: The Project Plan states the purposes that you can do. You could do public housing however keep in mind in order to do public housing you must be able to generate an economic model to do so.

Alderman Marr: I whole heartily supported the District when we established it and the Project Plan. When we were setting this District our finding was the blighted area that needed to be done and generation of jobs that was the purpose of why we wanted to do this. I don't think it can be argued at all that we currently have a piece of property that is in need of renovation and redevelopment. It is the closest thing to blight in NW Arkansas that I think we probably have in terms of property value that once was an economic item and today we don't collect any significant value from it. I have had citizens say to me that you are going to buy this and then sell it for fair market value which is something less than that. That is the intent of this legislation.

Alderman Marr read part of the Plan that stated, *which is less than its cost to the local government*, he stated that says to him that in the creation of this the government is going to take care of this item, otherwise you don't need it. If you can get the financing yourself why would you come and ask us. The reason we would want to remove this is for safer conditions. The two issues that citizens have talked about when they came to the podium was we don't want such regeneration that we can't continue to live in Fayetteville and don't condemn my property. I don't think we want to condemn the property. I think in our prior discussions the District decided we didn't want to condemn the property, which meant you need to negotiate in good faith, set contract values and that is what it is going to be to tear it down and redo it. The other finding in the Plan says we are suppose to do is *contain a finding that the plan is economically feasible*.

I heard men stand in front of us at the last meeting and tell us that \$3.5 million could be financed if this project didn't even exist. The model that this financial economic thing is built on is the most conservative. In the worst case scenario if it didn't get built, then the issue is that you are limited to collect that amount money in 25 years. The termination clause of this says *the District can't be existence for a period of longer than 25 years unless the bonds that have been issued would not be fully paid until which the date 25 years from the date of creation*. Worst case scenario would be if you didn't have enough increment and you got to the 25th year then you would keep going because you still have outstanding debt until that debt is retired. I don't see the risk, we are not raising taxes, we are only using the proceeds from the increment to finance it, we are getting rid of blight, we are creating jobs, and we are prospering downtown. When people look at new areas they look at vibrant areas downtown and the re-development of downtown. That is why we invest in downtown and Dickson Street because businesses look at what your downtown area is to decide whether or not they are going to relocate there. Because if downtown is crap then the rest of your town is, that is the assumption. I think it is important to keep your core solid. I think this is a major step to do that. I haven't heard any thing tonight that says this plan isn't economically feasible and that there is risk being taken on by the City to a degree that we can't handle it in 25 years. This is the only finding that I have found in this section other than the detail that Kit has talked about that we as a Council are suppose to do in the Project Plan. If we didn't think that we needed to redevelop this then we should have never set a boundary which is the first action we took. I think got great answers on the questions that citizens have asked. I think the bottom line is, is it economically feasible. I think we have heard it is and it is without the project ever being built. I think someone in the future is going to be

sitting here trying to figure out how to spend the money that I believe this project is going to generate.

Mayor Coody: One of the things the TIF regulation was put together for was to introduce a tool to redevelop blighted areas where private money won't go because there is no private incentive and no private motive. Private people are going to stay away from something like this because there is no way to make any money at it so it continues to stay blighted. This tool was set up to allow governments and private businesses to be able to take care of blighted areas. This helps provide an incentive for private folks to come in and invest their money, whereas there would be no incentive otherwise. That is the entire intent of the legislation. As far as condemnation goes we did talk about not wanting to condemn. My impression was the Council did not want to remove people from their homes. I think the conversation for the next TIF District, if we want to do one, shouldn't be that we have a history of not condemning property but if there is someone that has a derelict commercial property then the city can come in and condemn that property, not removing someone from their home but making a TIF project work. That's why condemnation in some cases might be appropriate.

Alderman Marr: Luckily we don't have that in this scenario.

Kit Williams: When I drafted this ordinance I said under Subsection K *that no non-project costs are anticipated to be paid out of the TIF proceeds*. There is a resolution that will be coming before you stating your intent to pay the city back for the cost that is incurred for economic forecasting and the bond proceeds. We probably need to amend Subsection K to say that non-project cost include financial advise, bond cost, economic forecasting, etc. rather than non are anticipated. If that is what the Council would like to do.

Alderman Reynolds: In the TIF District at what point are we going to put the utility lines under ground?

Mayor Coody: I don't know.

Alderman Reynolds: To me that is part of the blight of the old hotel.

Mayor Coody: You are right. If we redevelop College Avenue one of the things that we will want to do is move the utility lines off the main thoroughfare. That will take a lot of planning with the utility companies to get that done. That is a goal that we would have but we do not have a timeline or direct cost for that.

Alderman Rhoads: This Council or future Council's will have their hands on the controls.

Alderman Lucas: I am very much in support of this. Even without the hotel being built the revenue is there to pay off the bonds for Phase I the demolition of the Mountain Inn. This is getting rid of a terrible blight that we have in the city.

Alderman Marr moved to amend Section K of the ordinance to include non-project cost. Alderman Lucas seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

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

Mr. Williams read the ordinance.

Alderman Cook: You are still going to negotiate with them as far as the final price? Us voting on this doesn't change that?

Kit Williams: It does not change the fact that I will be coming back to you with a proposed contract for the sell of what we will acquire back to them and them building the project if we go forward and buy it and demolish it. The contract will come back before you.

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

Ordinance 4646 as Recorded in the Office of the City Clerk

NEW BUSINESS:

R-PZD 04-1154 (Cliffside): An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Dawn Warrick gave a brief description of the project.

Alderman Lucas: I noticed this is going to be reduced, is it still going to be four lanes?

Dawn Warrick: A collector street is typically a three lane street which provides for two travel lanes and a turning lane.

Alderman Lucas: So we are going to reduce the width of the street then.

Dawn Warrick: Happy Hollow is over built at the further north end, there is not an opportunity for it to go further north because of slope and development that is existing. It will transition to some degree at the northwest corner of this property.

Alderman Lucas: I noticed that part of that says no dead end. When you have a turn around or circle is that a dead end?

Dawn Warrick: My understanding of that is the cul-de-sac's in this case are not considered dead ends. The stub out to the east is not a street that someone would have to drive on in order to get to any of the lots within this development therefore it does not prove as a stopping point for traffic flow within the development. Traffic can flow on all the streets without coming to a point that it is a traditional type dead end with no outlet.

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Special City Council
Meeting Minutes
December 28, 2004**

A Special Meeting of the Fayetteville City Council was held on December 28, 2004 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Mayor Coody Opened the Public Hearing

Highway 71 East Square Redevelopment District #1 Creation: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on forming the Highway 71 East Square Redevelopment District Number One.

Mayor Coody: Kit do we need to do anything from your perspective?

Kit Williams: Basically this has already been discussed a few times before the City Council, it was a proposal that was approved earlier with minor notification problems. We decided to run through the process again but nothing has changed within the district. The borders are still the same and so is the project plan.

Alderman Thiel: I realize this has already been discussed thoroughly but I have had some recent concerns on this and have been requested that I ask some questions. We have had the discussion about reimbursement to the city for cost related to the TIF. Does that deal with adding additional staff to the City? At some point I would think there would have to be staff

hired to facilitate and coordinate. Would that be reimbursed from the proceeds of the TIF? If so how would that be divided among the various TIF's?

Kit Williams: I don't. I don't think there has been any discussion about adding new staff. The kind of cost I think the resolution was talking about is for the bond counsel, financial advisor, underwriter and the economic forecast that the University did for us. I think those are the costs that were anticipated to be paid for with the TIF proceeds if the bonds are in fact passed.

Alderman Thiel: No one thinks there needs to be any type of management of these TIF's except for the City Council?

Kit Williams: That would be up to the Mayor and the Administration I don't decide on personnel.

Alderman Thiel: My question again is if at some point we see the need to hire someone rather than contract our services would that be reimbursed?

Mayor Coody: I would think that it would be a reimbursable expense would it not?

Kit Williams: I don't know if it would be or not.

Mayor Coody: We have not had discussions about hiring any more staff for this.

Alderman Thiel: I think a lot of people are concerned about that. There are a lot of things that haven't been discussed and that is one of them.

Mayor Coody: It is an intense short spurt of activity and then by the time it is all approved everyone goes back to their normal routine. So it is not an ongoing day to day operation.

Steve Davis: The ongoing day to day monitoring and management of the TIF data actually falls to the County Assessors office. The County Assessor has the ability to charge each TIF for their potential share of increased operational cost.

Alderman Thiel: Can charge each TIF. Okay, very good.

Steve Davis: The City doesn't necessarily have any management oversight.

Alderman Thiel: There seems to be concern about the appraised cost of the purchase of the Mountain Inn and why the City or the people that have been working on this project didn't look closer at the idea of just condemning that property. Maybe Mr. Nock or whoever has been working on this project could explain why it was just set up with an offer of \$2.5 million to purchase this.

John Nock: I will try to answer that the best I can. The process to acquire the land was a multi month even year process to get the necessary property to do the project. One of the resounding comments that we heard both from public input as well as from the Council was that the interest in using condemnation was just not there. We certainly did what a private side would do and negotiate the very best possible prices for those parcels. In addition the statute clearly states that one of the specific items allowed and I will quote from that, this is the Arkansas Statutes for TIF's refers to real property assembly cost meaning any deficit incurred resulting from the sale

or lease as lessor by the local government of real or personal property within a re-development district for consideration which is less than it's cost to local government. It was certainly, in the intention of doing a TIF, the ability to remove the blight and also to assemble the necessary property. We could certainly just remove one building and remove the blight but then you could not carry forth the necessary items to do the whole project. Could it have been condemned, certainly. You can condemn anything the City Council has that power. It is also specifically granted under the TIF legislation it is my understanding. We did not approach that and we said early on that it was not our idea or scenario to be involved in a condemnation procedure. Having worked with the Dover Kohl Downtown Master Plan it was very auditable during that process that condemnation rather than re-development was not what was wanted it was the other way around and we certainly tried to stick with the spirit of that.

Alderman Thiel: I think there is a difference between eminent domain and condemnation. Whenever a property is to the point of being condemned, I see a difference there. I think what I heard in the early conversations of this TIF was using eminent domain and there is a difference. I guess I am alright with that and that is what I have explained to people that have asked me. I said I think that was the original intent and it was explained back to me they are two different things and they are.

John Nock: That is a good point. Let me go on if I may and go to another scenario. The idea behind a tax increment financing or a re-development district is a short term investment in under utilized blighted or under developed areas depending upon how you define the legislation whereby money is spent so additional dollars come back. This project doesn't make sense on its own privately and the only way it makes sense to have any public dollars come in and help with remediation of the building, removal of the blight and assembly of the project is if it is going to return economic dollars back to the project area in the re-development district. So, one has to say what is the cost for assembly, demolition and then what does this return. In your boxes this week there was a number that was supplied from HMR taxes, property taxes as well as other sales taxes just from this project alone. If my calculations were right it was in excess of \$40 million dollars over the same 25 year period. So the real test of a TIF is money spent short term what does it give us as a long term result. You are exactly right you could go in and do the same process by condemnation but what you end up with is a much different process.

Mayor Coody: Does that answer your question at all?

Alderman Thiel: Not entirely. Not as far as the difference between buying it and condemning it and that really is for the Mountain Inn property and I understand the whole project encompasses more than just that.

John Nock: We as developers had no interest in petitioning you as the City Council to do condemnation. That has not been Richard Alexander's history of doing projects in downtown; I think he's been quite successful with that. It's also been an adopted measure on my part that instead of going in and utilizing, where there's condemnation or eminent domain, that was not a part of our program. Maybe another developer would submit that, but that was not a part of our program and it was clearly allowed under the statute for TIF's. We complied with what was out there and also tried to follow that spirit of the law.

Alderman Thiel: Okay.

Mayor Coody: All right. Anyone else? Yes, Ma'am.

Alderman Lucas: Maybe a better question would be, why did the City not, before even the TIF's were, you know, available, why did the City – there must have been reasons why the City did not condemn the hotel, because it was a blighted building and everything and dangerous. I was just curious what the thinking was that the City did not approach it that way. Maybe we didn't have the laws – maybe we have better code enforcement now that we can do it or something like that...

Mayor Coody: No. The reason we didn't condemn it, we thought about condemnation but the developers asked us to please stay away from that because that probably would have screwed the deal up that they were trying to accommodate with Stella Mogel, is that right? So we discussed this...

John Nock: Well, there's more than one owner certainly involved, but it was never our plan to go through condemnation. We certainly – you certainly could do that.

Alderman Thiel: Yeah. I think what I – I think you've made a good point. I mean, why didn't we deal with this before the TIF discussion? I mean, in fact I think there had been some discussion of it a couple of years ago, before you even came forward with this idea of, you know, in other words I guess we all kind of feel like why are we compensating Stella for not doing something with that property.

Mayor Coody: Yes, sir.

Alderman Odom: My only comment about that is that condemnation isn't as simple as it sounds. I mean, it's a – it can be a very long, protracted legal battle when you've been in condemnation proceedings and you can't just go in and condemn property without good reason or you end up in a very long, protracted legal battle. An area can be blighted without the necessity of condemning it. And if – and I think it kind of goes to what is the City going to take as a policy stance. Is it gonna – just going to go in and start condemning property because it doesn't like what it sees? And I understood that the Council was sort of against that sort of philosophy. And so I think that's the reason it wasn't looked at sooner. I mean, yeah, it was a potentially harmful to, you know, vagrants and so forth to go into that area but those, you know, it was boarded up at certain points in time, the roof was maybe fixed at certain points in time, so – yeah – I think it's a dangerous thing for a City to just – at first – to go in and say, "we need to look at condemnation". I think that's a theory or a way of last resort. Much as a tourniquet is – if someone is bleeding, the first thing that you want to do is apply pressure. The last thing in the world you want to do is come in and put a tourniquet on. So I don't – while I think that the area was blighted, I don't know that it was to the point of where the City needed to come in and actually condemn the property. That'd be my thought on it.

John Nock: If I could add one more thing...

Alderman Thiel: We have a Raze and Removal on the end of our agenda of this next - on Tuesday's Council meeting. So...

Alderman Odom: I'm not saying – I'm not saying that there aren't certain times where things shouldn't be condemned...

Alderman Thiel: Yeah.

Alderman Odom: ...there certainly are. I'm just saying I'm not sure that this project was actually to that point. It sure was close.

Alderman Thiel: Yeah.

John Nock: There's an economic story behind that, too. We have three different bids coming in on the demolition of the project. And those range, at the minimum of half a million dollars and at the high side, close to nine hundred thousand dollars. So, again, I don't know the complete process but I do know if you condemn and if you do tear it down, the City, the taxpayers would then absorb that cost, and then if I understand the process after that, you would then attempt to try to sell the land. Uh, having been recently involved in the purchase of the library, where we paid full market value, in fact a little bit more than that, than what your appraisal came up with – an independent appraisal analysis on the old library building, that was actually \$6 a foot - with a nice building in a nice historical area. Whereas the Mountain Inn, the appraisal on it came in, believe it or not, at the same area – right at \$6 a foot. But it's also blighted and is not in the historical area, but it has potential to turn around. So, uh, the valuation of how we'd be purchasing it, versus where it is, it's worth much more with the buildings gone, believe it or not. Because of the liability of – let's call it a half a million to three-quarters of a million dollars is a number that the taxpayers would then immediately absorb. If you can sell it for that, great, otherwise it would be a deficit thereafter. Whereas, a redevelopment project such as this – and as you've seen on the spread sheet that's been prepared, \$3.5 million comes back in many different ways – through HMR, other sales tax as well, that otherwise would not come, even if it was just a razed building with an empty parking lot.

Mayor Coody: All right.

Alderman Jordan: You know, it seems to me that we did have some discussion of condemnation on this property because I remember Alderman Marr saying something like that nobody on this Council wants to condemn property. Is this the same – was this the same issue? Do you remember, Don?

Alderman Marr: Yeah. Actually it was a gentleman who lived down off of Rock Street I think it was who was talking about a home. It wasn't this particular building. But there – the people who actually commented were concerned about eminent domain and...

Alderman Jordan: Okay.

Alderman Marr: ...condemning their property for economic growth, if you will and I – I made a joke that night that, you know, the best way to do that is to reelect the people up here who didn't want to do that. And, so – I also think that – I mean I wasn't aware the history of why we didn't proceed with, you know, code enforcement on the property but I think at this point, since it wasn't and there's been negotiations, I think you open – a point to consider is we open ourselves up now for commitments that have probably verbally been made or contractually made about purchasing it versus changing in mid stream. So that would - now my concern would be that you'd have higher litigation on the end of going that route.

Mayor Coody: Well, if I remember right, we certainly sent letters to ask to please secure the place. Kit, I think, did you have a hand in that? I believe we sent letters to Moga saying that they needed to secure the place, clean it up ...

Kit Williams: I didn't have a hand in that but I was aware, I know we had our fire marshal go into the building and he was very concerned.

Alderman Thiel: And again, I wasn't to emphasize the difference between eminent domain and condemnation. There is -- I mean, there is a difference as far as, I mean because the condemnation that we're doing -- the raze and removal we're doing -- we're going to be discussing at the next meeting, is for a different reason. I mean, eminent domain is taking property for streets or whatever. And I do think this Council was very committed to not using eminent domain. As far as -- I mean I'm sure we'll -- we'll have properties pop up down South College again that need to be razed and removed. I mean, so we're not opposed necessarily to razing and removing and condemning property whenever it's necessary. And -- and I really don't -- the reason I'm bringing this up is just these are questions that people wanted me to try to get fleshed out so that they have a better understanding of this TIF. I think there's more concern about this one now in a way because we're looking at other ones. And, so anyway that's really the reason I'm -- I agree with you, there's already been a lot of commitments made and I'm not, you know, going to back pedal on my support of this particular one. I just want to make sure plenty of questions are asked and so...

Mayor Coody: All right...yes, sir.

Kit Williams: Mayor, we probably should restrict most of the discussion actually to the boundaries of the TIF and the creation of this TIF rather than talking about the project plan at this point in time. And we need to make sure that we let the public comment since this is the public hearing portion.

Mayor Coody: Oh, yeah. That was the next thing is public comment. Where it says here, present views on forming the 71 East Square Redevelopment District #1, I was thinking that that's what Brenda was doing, was presenting her views on that. All right, anyone from the public want to comment on this? Yes sir, please step forward. Please introduce yourself for the record.

Don Bright: Yeah, my name's Don Bright. I've got three questions that I'll try to get over with real quick and then let whomever up there wants to discuss them. Number 1 -- and we've been talking about this -- do you plan to use to condemn property and use eminent domain on the non-blighted areas. I think we all know that the vast majority of this district is not blight so would you ever use eminent domain to remove a person from a non-blighted building. Two

Mayor Coody: Let me answer these one at a time. Then I think the first answer we can pretty much certainly say no.

Don Bright: Okay. Do you have a definition of blight that you can include in this or would you consider that?

Mayor Coody: With TIF legislation I believe that if...is there no....?

Don Bright: I've read the Act and it – well it covers it but it doesn't specifically – when you say "underused" as part of blight, you know, a person that travels a lot is not using their house a lot so its – it leaves a lot of open gaps, I think.

Mayor Coody: Well, I think that when we've used the word "blighted areas", when we look at the Mountain Inn, pretty much everyone agrees that qualifies.

Don Bright: Definitely I agree there. But if someone's living in a – in a private home for instance that's not very well kept, you can't call that blighted....

Mayor Coody: True.

Don Bright: ...is my point. And the other one – and this is, you may not have to discuss this, it may sound silly. Is there – or have you considered taking bids on the development of these TIF areas and seeing if another developer might come and do it without the City having to put out as much money. Thank you.

Mayor Coody: Thank you very much. As far as taking bids go, no, we haven't because, Steve, where – is Steve Davis back there? Our finance guy? These folks came up with a plan to put a 14-story hotel here and do a lot of things we needed to have done in the downtown area. If we were to just put it out to bid, there's no telling exactly what we would get, I believe. Do you have an answer for Mr. Bright's question about going out to bid with random access folks to see if they – what they would do with the building?

Steve Davis: I'm not sure it would be in the City's – the City would be in a position to put anything out for bid. Until the property is acquired and demolished, there's nothing there to – for us to bid out. It's been a vacant building for many, many years and it's been – there's been a number of items in the press about who the owners were, so any – any developer that wanted to try to put together a viable development plan had the opportunity to do that. These developers did take that opportunity and did show the initiative.

Mayor Coody: All right. Thank you. How are you tonight, Jeff?

Jeff Erf: Okay, thanks. My name's Jeff Erf, a Fayetteville resident. I live outside the proposed TIF district. Uh, the Northwest Arkansas Times has this special section on their website devoted to explaining this specific TIF district and some of the other proposed ones and I just wanted to read a couple of statements here and find out whether or not they are true. And this is in regards to the Mountain Inn TIF district, is what they are calling it, that's what is before you tonight. "A redevelopment district will not raise tax rates for anyone." Then there's another statement, "anyone with property outside the district is unaffected". Would that be a true – are those true statements?

Mayor Coody: I certainly believe so, yes.

Jeff Erf: Because about three weeks ago, there was a discussion about raising millage rates for fire and police protection. I believe you had thrown out maybe 2.5 mils additional tax. And there was a comment and some discussion made about that since the millage rates would be frozen to be a base rate in the TIF districts, that that increase in millage for fire and police protection that would cover the rest of the city and would go into the general fund for fire and

police protection, that additional collected tax would actually have to stay in the TIF district and be used for that TIF development plan.

Mayor Coody: I'm not sure that – does that apply to new millages, Kit? Or is that just existing millages?

Kit Williams: I think there is a base value established and that will cover it even if there's going to be a new millage. But it doesn't raise anybody's tax rate. Now, it might affect where that tax is going – inside the TIF district it would go to the County Assessor and she would send the increment back to the TIF district itself to pay the bonds or whatever. And the money from outside the TIF district would all go into the City for general purposes. So it wouldn't raise anybody's taxes but not all the taxes collected would go to the City. Some would go to the TIF district.

Jeff Erf: Well, there was an article in the paper, I think a week ago, that the library had requested the attorney general for an opinion. Their concern is that if they were to raise library millage, the way I understand it anyway, that that millage – the tax increases that would be collected inside of a TIF would stay in the TIF and could not be used for – their concern is that it wouldn't be available for the library's use. And, reading between the lines, if they can't collect that additional money from the TIF district, then they have to raise millage in the areas of the City that aren't included in a TIF.

Kit Williams: I think the only thing a TIF does is put a base of property value – not a base of taxes – a base of property value that can be raised – that you can apply millage to in a TIF district. So it's not that the new millage might not – the new millage would be applied uniformly I think, throughout the entire city, but the base value of the property in the TIF district will not be raised because – the increase in property value will go to the TIF district but the base value will stay with the other taxes entities, whether they're the schools, the library, the County or the City.

Jeff Erf: Okay. Let me re – I thought you discussed this already, so let me try again. If you would, for example, raise the millage for fire and police 2% and it – and for the entire City including the TIF district. And you're collecting that additional two mils from every property in the City. Does all the property in the City – does all that money go to the City's general fund or does the property that's inside the TIF district – that money has to be directed and allocated – redispersed – to the plan – to the projects only inside that area – that TIF district?

Kit Williams: My understanding is it's a mixture in the TIF district. The base value goes to the City for the general purposes. The increment – the amount above the base value, the amount the property has increased in value in the TIF district, that would be separated by the County Assessor and that would go back to the TIF district. But the millage would be applied uniformly, there would be no difference in tax rates, whether you're in the TIF district or out of the TIF district.

Jeff Erf: I'm not concerned about the difference in the tax rate, I'm concerned about the money – where the money comes that's collected in the TIF district, if it – if there's an additional two mils property tax increase in the district, does it increase the base rate by two mils or does that – or is it considered part of the increment, which goes into the...

Kit Williams: My understanding is – it's not part of the increment.

Jeff Erf: It's not? Okay. That's what you're saying.

Kit Williams: That's my understanding. No, only the increase in value of the property – that is the increment. Not a change in the millage rate itself. Only the property's value. The property goes from \$100,000 to \$120,000. So that \$20,000 – the millage on that \$20,000 goes to the tax increment financing district. The \$100,000 still goes to the taxing entity.

Alderman Rhoads: So, so to answer Jeff's question, if you – if you raise – if you put a new millage in, then the – the benefactor – I'm sorry, the beneficiary of that new millage wouldn't get that additional millage on the \$20,000. Is that right?

Kit Williams: I'm not – I'm not sure if there's a new millage – I think the new millage would be applied at the base value, that is established right now....

Alderman Rhoads: So with your example, you'd get the millage on that \$100,000 and then that additional twenty would go ...

Kit Williams: ...would go to the tax increment financing district, I think.

Jeff Erf: But, okay, but then over twenty five years that could be a significant amount.

Kit Williams: That's correct.

Jeff Erf: So, okay. Thank you very much.

Mayor Coody: Thanks, Jeff. Anyone else want to address us on this? Yes, sir. John, how are you tonight.

John Newman: I'm good. I'm John Newman, Fayetteville resident. I guess I'm coming into this late, but I just wanted to state my opposition to this TIF and certainly to the others that I've heard just a little bit about. And I'm opposed for two reasons. Opposed to this TIF. One, I think my reading of the law it talks about blighted areas. When I think of a blighted areas I think of something where, you know, there's no private investment going in, that sort of things. And I'd certainly agree that the Mountain Inn is a blighted property. But the Mountain Inn lot of course is a very small part of this district. And then when I look around at what's in the district, I see the Town Center, I don't think that's a blighted property. I see the whole square and I see new development, I think on Spring and College there's something going up and we've got the Mill District, a new Walgreens. So, it doesn't seem to me like a blighted area I guess. Maybe I'm reading the law wrong.

Mayor Coody: I don't – now just - all the land inside the boundary doesn't have to be blighted. This intent of this legislation is to be able to put private investment where it won't go without some kind of a mechanism or a tool like this to make it happen. So, we wouldn't be considering the Town Center, for example, a blighted area. Well, that's a bad example since it's off the tax roles anyway. Let's just use new development over at Spring and College. That – that's going to be a brand new building – it certainly won't be blighted, but the increase in the property value there, that increase will go toward the removal of blight within the district, which means the Mountain Inn and its environs. It doesn't mean that the entire district is blighted. But it means there – that's the reason the boundary is drawn the way it is, is to capture enough of an increase – and

believe me even as big of an area as that is it doesn't generate as much money as one might think. So the reason the map was drawn like that is to be able to capture enough of an increase to make – an increment to make the redevelopment of the Mountain Inn viable and without something of that size, it wasn't – it's not viable. Does that make sense at all?

John Newman: Yeah. I mean, it makes sense. And I guess that's a good reason why you would want to draw the district large. But I don't think the district at large in general is blighted. There's maybe, you'd call a low rent district, or even parts of it are not that, the square certainly isn't...

Mayor Coody: No. We – I think we would all agree with that assessment. The whole district is not blighted.

John Newman: Okay. Well, my reading of the law, it seems like an abuse of – if not the letter of the law, the spirit of it. I guess the – the number one reason I'm opposed to it – opposed to TIFs in general, is they sort of sound too good to be true. And in a way it goes back for me to twenty-five years ago when I was getting my accounting degree up on the hill and I had a teacher, maybe some of you know Leonard White, best college teacher I ever had for economics. And he was so good because he distilled economics down to a few basic concepts and one of his basic rules of economics was that there is no free lunch. No free lunch for society. He said now, he said, "Dan, you may buy me lunch and I get a free lunch, but that's only because you're paying. And that somebody's always paying for everything. And – and yet I'm hearing this being promoted – the TIF concept, like a free lunch. And that's really what got me interested in it in the first place. I'm reading these articles and initially not understanding them and finally really dug into it a lot wanting to – wanting to answer this question. Well, who's paying for this? And, the only answer that I could come up with is that it's – it's our school districts, school district, and anybody else that gets these taxes. And I understand that this is just – it's just on the increase in value but when you're talking twenty five years, especially in an area like Fayetteville where real estate is appreciating fairly rapidly, you know, you get out there twenty, twenty-five years and the increment in value is likely much, much larger than the base value that you started with at the beginning of the period. I studied the, you know, the plan that's on the website and read through it to further, to answer this question and I poured over the numbers and the projections that Jeff Collins at the U of A did, which by the way there's a few significant mistakes in there, but be that as it may, those projections don't speak to my question at all. All they do is project how much money will be generated by this and is it enough to do whatever we want to do. Kind of what you were talking about earlier, Dan. So I guess my question is, do we have projections that say, "here's what the schools and others would get if we didn't do a TIF, and here's what they'll get with the TIF in place." Because without that, we're just shooting in the dark.

Mayor Coody: While we do have some projects, I'm not sure – at the level of detail you're asking, I'm sure we do have several projections out there that you're welcome to. But one of the things is, that without some kind of tool for redevelopment, the Mountain Inn is going to stay just like it is for the next twenty years. And we won't see those property values increased. I mean, it's been like this for, I don't know, twenty years already. We don't see much hope for a really good redevelopment, especially the kind that we really need downtown without a tool like this to make it happen. If there were an easier way to do it, we would have done it years ago.

John Newman: And let me just say, I think the idea of, you know, helping to put a hotel on that property, doing something with it is a wonderful idea. I just think, I'm really uncomfortable with

TIFs because of this idea that we go into it without any clear understanding of who's paying. And yeah, if I can get a copy of those projections, I'd like that. Thank you.

Mayor Coody: All right. Thank you. Anyone else want to make a comment on this tonight?

Phil Ralston: Good evening. I'm Phil Ralston. I'm from Fayetteville. Are we talking about the plan or the district at this point?

Kit Williams: We're supposed to be talking about the – about the borders and creating the district.

Mayor Coody: Yes.

Phil Ralston: So, when are we going to talk about the plan again?

Mayor Coody: That's going to be...

Kit Williams: Later on tonight.

Mayor Coody: Yes.

Phil Ralston: Later tonight. I'll wait then.

Mayor Coody: All right. Thank you. Anyone else want to talk - address us on this topic. See none...oh...go ahead.

Carol Tarving: Good evening. I'm with the Green Party of Washington County and the Green Party of Arkansas. And when I was visiting Little Rock recently to visit the Clinton Library, I picked up the Arkansas Times that had an article called, "More TIF Madness" by Max Brantley. And I'd like to offer you some copies of that article. The first thing I'd like to know is if you find anything inaccurate in this. Kit, I know you were quoted quite a bit in this article and I'd like to know, you know, if there's anything that was a misquote in that article.

Kit Williams: Well, actually I won't argue on the quotations but often he started off with a comment that I would make at the start of a paragraph and then he would fill in his thoughts the rest of the paragraph, making it sound like those are what I said, when in fact, that is what he said.

Carol Tarving: Well, this is what, I would like to use this opportunity to clarify what those comments are. They were different than anything I've heard – heard or read in our local media concerning this. But it does raise the issue of the legalities – and you've mentioned that if you, it quotes you as saying, if you were in private practice you would question some of the legalities of this TIF plan.

Kit Williams: No. He didn't go – actually go that far. He said if Williams were a lawyer in private practice, he said he'd be inclined to look at the legality of some TIF's being completed in a rush. And that's not the Mountain Inn TIF, which is not being completed in a rush and in fact, fully complies with the law in my opinion. There have been some others that I've read about in the paper that have caused me to wonder about them, but I don't want to comment on any of the other TIF's.

Carol Tarvin: I agree. And, and you know that's, part of our concern is that this is a template. This is a precedent setting TIF in Northwest Arkansas. And so, how we conduct this one, it seems to me, is going to make a difference in how other – I've noticed that Lowell has designated 47% of its whole town now as a TIF district, you know. That's a – that's a concern. That the Community College in Rogers is concerned about the losses that it's going to incur due to lost property taxes that go to the school programs. This quotes you as saying that the schools say it's great, their bond millage is protected, the State Treasury is going to make up the loss, is that correct?

Kit Williams: Well, that's actually not correct. Their bond millage is absolutely protected because the TIF increment financing specifically excludes millage that's required to make their bond payments. However, even their operational payments, I think are protected because of the Act that the legislature did in the last session saying basically that they would hold school districts harmless from the affects of a TIF. We had the Finance Director for the Fayetteville Public Schools come and address us this summer when we were considering this TIF district and she said this is fine, this is no problem for the schools, they're financially held harmless and so I'm inclined to believe the school people know more than I do about the school finances.

Carol Tarvin: And I'd like to ask, are there any people from the school board here tonight to speak to that.

Mayor Coody: I'm sorry. Can you, you need to address us, please.

Carol Tarvin: Okay. Well, I thought it was a public hearing, but anyway ...

Mayor Coody: It is.

Carol Tarvin: ...uh, so I am concerned about what, you know, the effects on the State Treasury that you raised. Or are credited with having raised in this article. It's saying that the schools like this because we've got a new State law and program and funding that will pay per pupil if – in case – they're kind of the insurers if this thing goes belly up, the schools will not lose their funding because the State Treasury, a bottom line, will make sure that all of the school funding is provided through the State, is that correct?

Kit Williams: Well, I think the Act is not concerned about whether a TIF district goes belly up. But, just the fact that the schools would be losing a portion of the increased taxes and I think that the new Act that the legislature passed last session makes this difference up. That's what I understand from the presentation of Dr. Lisa Morstad from the school district when she came to us and said this is fine with the Fayetteville Public Schools and she supported the creation of this district.

Carol Tarving: Based on that....

Kit Williams: Based on that State law.

Carol Tarving: ...using those State funds.

Kit Williams: Yes.

Carol Tarving: Right. Well, their comment here is that the – the TIF's are possible only in the most prosperous areas, making the subsidy doubly cruel for the people in the Delta and elsewhere paying the cost of a better Fayetteville. Our concern is that State monies will, when you - when this gentleman asked about who is going to ultimately pay, I thought that was a great question. And that there's a risk that if schools – and what's difficult and I know it's a complex issue here, we've got school boards and property taxes, we've got State fundings, we've got City, you know, trying to, you know, just find the one right body to talk to about the multiple concerns – I'm a citizen of each one of those entities. As a State citizen, I'm concerned about the State Treasury being used to underwrite a plan that is going to help develop Fayetteville. And there was – there was, is it – is this an accurate quote here that says, "Williams wondered if any State legislature realized how much money this is going to cost the State Treasury. In the beginning years, the amount will be relatively small, but as the new projects come on line in the big TIF districts in booming Northwest Arkansas, the local property tax loss to the schools will increase dramatically, all to made up by the State in future years" and the quote attributed to you was that it's going to be phenomenal.

Kit Williams: That could very well be. I could have said it's phenomenal because it will be if the law remains unchanged, obviously, and if there are a lot of TIF districts established, especially large ones like in Rogers, there will be a tremendous amount of money from the State Treasury to make up to the school districts the amount of TIF district money coming from that district.

Carol Tarving: Okay. And so, our concern isn't just with this particular project, it's...

Mayor Coody: Carol, Carol, I'm getting a lot of heat up there – the discussion is supposed to be limited to the boundaries of the district itself. I know that ...

Carol Tarving: Well, we – our request would be that you take time, possibly postpone any vote on this, it seems to me that there's a lot of different questions being asked and that we get more answers before we make any decisions or sign our names to anything that the legislature could be changing as it meets this spring.

Mayor Coody: Thank you very much. Anyone else want to address us on the boundaries? All right, I'm going to close this part of the public hearing.

A. New Business:

1. **Highway 71 East Square Redevelopment District #1 Adoption:** An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution, authorizing the preparation of a Project Plan, repealing Ordinance No. 4608 and declaring an emergency.

Mr. Williams read the ordinance.

Kit Williams: And I should note that actually we already have an ordinance in effect right now, that's Ordinance 46-08, which was passed, I guess almost this summer, it's been a long time ago. That ordinance is in effect. This ordinance would in fact just repeal that and replace it with one that is identical. The only reason for this was a very minor technical notification problem that probably wouldn't have affected that ordinance. It's probably 99.5% safe as it is. But since there was a very minor notification problem, I thought it was wise for us to have another special

meeting in order to re-pass these ordinances and – which would repeal the initial ordinance which is currently in effect.

Mayor Coody: All right. Thank you. Any questions or comments on the ordinance?

Alderman Marr: Just got a – since this re-notification, has there been anyone, school superintendent, school board member, or Lisa Morstad, the CFO of the school district, or Judge Hunton who have expressed concerns about the development of this TIF since that last notice?

Mayor Coody: I haven't heard a word.

Kit Williams: I've heard nothing.

Alderman Marr: So no change in position from their original?

Mayor Coody: None.

Alderman Marr: Thank you.

Mayor Coody: All right. Is there any comment on the ordinance that we've read? I would entertain a motion to suspend the rules and go to the second reading.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Mayor Coody: All right. Any further questions or comments from the Council? And once again, to restate this, this ordinance or one extremely similar to this was passed several – or a few months ago anyway, only except for notification of some particular school board members that we thought were notified but weren't. We're just redoing this to make sure that we get all of our T's crossed and our I's dotted.

Kit Williams: And in fact, the school board members did receive notice from Superintendent New, I think, Mr. Conklin talked to Superintendent New – so they actually received notice. The statute said we're supposed to send them letters and so we did not send letters out. It's a very technical problem. I don't think it would have been a real problem but if we can make it 100% right, I'd rather do it 100% right.

Mayor Coody: That's why we're going through the public hearing process again. All right.

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

Kit Williams: We need a separate vote on the emergency clause.

Mayor Coody: We do have an emergency clause, which does require a separate vote. Is there a motion to accept the emergency clause? We have a move and a second to approve the emergency clause. Shall the motion pass?

Alderman Marr moved to approve the emergency clause. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: Thank you. Now, we'll move along to project plan part of the public hearing. Most of which we've already heard about this evening.

B. Public Hearing:

1. Highway 71 East Square Redevelopment District Proposed Project Plan: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the Proposed Project Plan for the Highway 71 East Square Redevelopment District Number One.

Mayor Coody: Is there anyone who hasn't spoken tonight that would like to?

Phil Ralston: Good evening. My name is Phil Ralston. I'm from Fayetteville. And I'm glad that you guys had to go through this again because I wasn't able to make the first meeting and you went through three readings of this plan in one meeting. And I wasn't able to attend that.

Alderman Thiel: No, we didn't.

Mayor Coody: I think we did it over a couple of – two or three-week periods – I forget exactly the length but we didn't do it in one meeting.

Kit Williams: I think there was two meetings.

Mayor Coody: Two meetings over a two-week period.

Phil Ralston: Is this the project plan that we're talking about – dated 11/10/2004...

Kit Williams: Yes, I think that's correct.

Phil Ralston: ...that I picked up down at the City? Okay. I wanted to make sure that was right before – before I go further because there are things in this plan that I think don't meet the law requirements, specifically in five different ways. First, in the law, which is included in the plan, it says that the – each project plan shall include – and I know, Kit, that 'shall' means different than 'may' include, which means it has to be there – it shall include ...am I right?

Kit Williams: Shall is mandatory.

Phil Ralston: Shall is mandatory. It shall include a detailed list of estimated project costs. A detailed list I don't see in here. I see an overall big picture, but I don't see any details. And it's kind of hard to see the detailed costs are going to come out to \$3.5 million. I – it could happen but probably not. And on page 10 under other costs, it includes providing replacement parking and it doesn't say what that's going to cost. That would be a detail that's not there. The question I have is – are we responsible for – for parking for whoever this parking is for. If we buy the

building and we say you don't have parking here, are we responsible for re – for providing them parking. I don't think we would be but that's for you to decide. The second thing in the 'shalls' is number 4, which – which at the end says that the description of the methods of financing and the time and the costs or monetary obligations related thereto are to be incurred. You know, I see up here we're going to have a three and half million dollar bond and then we've got other costs on the phase two but it doesn't say anything about when or what it's going to cost us to do that, so I don't think that meets the – meets the requirement of having that in there. The next thing is item 6 on the 'shalls' – the type and amount of any other revenues. One thing that we've talked about for – any other revenues that are going into this TIF fund should include what are we getting when we sell the property. That's not in the plan. I don't think that at the meeting I've watched on television, it was discussed but it was going to be determined at some point in the future. You can't pass a plan with details that aren't in there and then expect it to be a valid plan, I don't think. And also it says it shall have a list of estimated non-project costs and I don't see any non-project costs. Are there not going to be any non-project costs that are paid for out of this fund?

Mayor Coody: The non – I don't know of any non-project costs - the costs that we would have in here would be associated with the project itself. The project or the public infrastructure investment within the district. Is that what, non-project costs, would there be anything outside that, Kit?

Kit Williams: I don't think so. I think that, I believe the plan does comply with the statute, but go ahead.

Phil Ralston: Okay. In addition to these reasons, you know, that I don't think it follows the law because it doesn't have all the details in it, I don't understand why we're paying the full-market price on this property and I'm wondering who negotiated for the Mountain Inn? Was it the developer who negotiated with the seller and we're taking their price? Could we not have negotiated a better price by threatening, whether we used it or not, condemnation and reduced our costs? Even with the same district that would have made more money available for other plans – other project items that – I don't think we addressed that.

Mayor Coody: The Mountain Inn, I think we're having to use appraised values.

Phil Ralston: We have to use appraised values?

Mayor Coody: We are. I think that the County has an assessment on there and appraised values and values that we're using are on a funding formula.

Phil Ralston: Okay. The other three buildings that we're buying aren't blighted, you know. Why are we buying them at full market price and selling them for – for blank space price? If the developer wants that as part of their project, you would think that they would be able to pay for at least the amount that they're – the cost of the buildings. I mean, we're building – we're buying them at fair market value and we're tearing them down and we're giving them to them for dirt price. I just don't think that – that that's a reasonable way to do things. On page 18 of the plan, under the economic feasibility study, it mentions that the TIF's in Tulsa, most of those had difficulty meeting their projected increases. So what are the chances we're going to meet our projected increases? I mean, we're projected 10% - 9.9% growth for 25 years. You know, if we – if you have that kind of growth, that means every 8 years your property is going to double in value. So if you have a \$100,000 house now, in 8 years or less it'll be \$200,000. In 16 years

it'll be \$400,000. And in 24 years, by the time this plan is done, it'll be \$800,000. And I don't – I don't know that property is going up that fast around here.

Mayor Coody: With the Crews & Associates assessment of the situation, they made the statement that even if we didn't building the hotel there with the expected increase in the values, even if the hotel weren't built, even if we just had bare dirt there, that we would still be able to meet our obligations. That was very conservative...

Phil Ralston: You mean, which obligations, for the \$3.5 million?

Mayor Coody: Yes.

Phil Ralston: But not for anything beyond that.

Mayor Coody: That's all we're worried about right now.

Phil Ralston: Well why is there phase two in here for this other....

Mayor Coody: We can always amend the plan later on. Once we see how this phase one goes, we can always amend the plan and have more public hearings and see if we want to do a phase two, and if so, what it would include.

Phil Ralston: But phase two is in the plan. I mean, it's not – it's not something you would amend to put in there because it's already here. Although there's no detail in it.

Mayor Coody: The detail's what I'm talking about.

Kit Williams: Well, what you – what you would do is actually – phase two as you say is in the plan right now. However there is not a request at this point, or anticipation to try to use TIF bonding to do phase two at this point in time. Our financial advisor recommended we wait several years and make sure that the increments are as predicted by the economic expert before we look at doing phase two. And so phase two is here – we wouldn't necessarily have to amend the plan but there would have to be another ordinance for a bond ordinance if we wanted to go forward - or when we want to go forward with phase two.

Phil Ralston: So phase two is here with no detail but that – that qualifies for what the law says to have the detailed costs? On page 7 it indicates that a national flagship hotel is being planned. And originally they had talked about a Holiday Inn Crown Plaza and I understand that that's not the case. Do we have any idea what kind of hotel we're going to have at this point? I know I've heard it will be a good one. But I don't know what that means. It's in the plan, I'm just trying to figure out what the plan says.

Mayor Coody: Yeah. I don't know exactly who the hotelier would be right at this point. We'll ask that of the developer.

Phil Ralston: The cost for creating the plan. Who's paying for that? And for the feasibility study? Is that coming out of the TIF?

Mayor Coody: Yes, TIF proceeds.

Phil Ralston: Do we have any idea what it costs? And why aren't those details in there? I mean, that's a – that's another plan cost that should be known at this point and should be included.

Alderman Thiel: Didn't we pass a resolution last week that dealt with some of that?

Kit Williams: Yes, it did express the City Council's determination that they would apply the costs of preparing the plans and the TIF district and recover that money back from the TIF district itself, or all TIF districts that we might adopt.

Phil Ralston: But it's not in the plan what that costs or anything like that. So those are my concerns that it really doesn't meet the law because it doesn't have the detail and it looks like a good starting point for a plan but it doesn't look like a plan for a redevelopment. It looks like a plan for \$3.5 million to the developers to me. Thank you.

Mayor Coody: Thank you very much for your comments.

4 **John Nock:** I'll address a couple of those items I think you directed toward the developers. First of all, about the flagship, it does state in the project plan that we are using a national flagship – a couple of things that we have probably failed to mention in these meetings – let me go ahead and point that out. When Stella Moga originally tried to do this project in 2000 – 1999 and 2000 – and on before 9/11 occurred she had gone through negotiations both – she had architectural plans, engineering plan, as well as a franchise agreement secured through Crown Plaza. Part of our negotiations for that project and part of the value that the TIF actually will receive because it's going to be a flagship hotel, is we have inherited that franchise agreement. We certainly have to pay for it but it – it saves about a year's worth of process to be able to do that. What we have elected to do, however, is allow the hotelier who will be running this – this is a real estate project based primarily with the hotel in it that will be run by a hotelier. We are certainly leaving that option to the hotelier who currently has two different types of flagships – one of which has been previously in Fayetteville. It did not have a good life to it and it's now gone from Fayetteville. And so we're leaving some of those details about what the hotel chain will be up to the hotelier and what best fits. And also, keep in mind, we don't do this just on 'hey, we want this type of hotel or that one', it's based upon demographics, feasibility studies and other scenarios that we have to look at. And so we inherit a Crown Plaza franchise agreement, which we certainly have to keep alive and renew that fee, but that is one of the intrinsic values that comes with the project. Whether it ends up being a Crown Plaza or whether it becomes another flagship, that has been our commitment that it will be a nationally recognized flagship. It was not our intent – and the reason why that's in there that way, it's not our intent to do another home-grown, boutique hotel. It did not work there before and there are many reasons why those don't work for most cases in these type of metropolitan areas. Primarily because the traveler today – they're hooked in with national chains or hooked in with national reservation systems and so we've allowed that to be a decision that the hotelier – the management arm who comes in and runs the hotel business – to make that decision. All franchise agreements charge anywhere between 9 and 15% of revenues and so you certainly look at that as a better name should bring in better revenues, but also you want – you need a name that's going to be complimentary to the Fayetteville market. There's certain names you're not going to put here. You don't need a Ritz. Fayetteville market wouldn't cater to that. But you need something that's going to fit the demographic of the traveler and the overnight businessperson as well. That's one of the questions. I think one of the other questions was about – I believe it's spoken of as non-project costs. The way I understand those defined, Mr. Williams, is those pertinent and

necessary to the issuance of the bonds and those would come directly from bond proceeds. And that relates back to your earlier question about can the City be reimbursed for those non-project expenditures and I think the statute says you may pay them yourself or you may elect to allow the TIF district to pay for it through bond proceeds. So, those kind of – two questions with one answer. Were there any other questions that you wanted me to answer?

Mayor Coody: Any other questions for the petitioner?

Alderman Thiel: I wonder if he answered everything...

Kit Williams: Well, let me respond to one. They talked about a detailed list of estimated project costs. And I guess the devil's in the details, when you say 'detailed', how detailed do you want to be. If I look on page 9, I see the real property assembly costs, I see our demolition and site preparation costs to total up the initial \$3.5 million that is supposed to be invested. If you look on page 13, you see six streets listed that are supposed to be improved – each one of those has an estimated cost figure for the improvement. Obviously, before you do engineering work, it is impossible to get perfectly detailed plans. I think that the – this statute needs to be read with some degree of reasonableness. How far are – would a City be required to go to make their project plan before they even know whether or not the City Council's going to approve it and there's going to be any tax increment financing to finance everything. I think what the State legislature wanted to do is say don't just say you want money. You've got to tell the citizens what are they going to do. What are you going to use this money for. Well, according to this plan, we're going to use the money to buy four buildings, they have them all listed out, how much it's going to be and then the rest can be for demolition and site preparation, which includes resolution of access issues, resolution of utilities as needed, water/sewer system upgrades as required, layout and engineering, asbestos and other environmental remediation. So I think that, depending on how this would be interpreted, I think that is a fairly detailed list and I think we've met the statutory requirements. This is a new law, it's never been interpreted by the Supreme Court, so how they will interpret detail if it's ever challenged - I wonder, but I also wonder if any other cities have gone into any more detail than what we have.

John Nock: If I might add one thing, because that was a question that I guess was addressed partly to us having been involved in this phase one of the project plan – and as you notice, it does come into a tidy number of \$3.5 million. We started this process looking at all of the public aspects of the project for the TIF. None of the dollars that are used here will be spent on private – on building of the private hotel, building of condominiums or even the parking deck. All of the expenditures that will come through the TIF bond proceeds will go directly, as the statute outlines, for public purpose. There is expenditure numbers that are – expenditures number greater than \$3.5 million that are for public purpose. But you can only service so much debt based upon the size of the district and based upon the increment as found through the feasibility study. So, could it have been larger? Certainly. But the reason why it's dropped to \$3.5 million is that is the most that it can service in its early years, certainly in later years it will be much more but that's being utilized for phase two of the project. Secondly, the other thing is that I think the engineering issue is – is a good one. We already know from our preliminary estimates that we're going to be in excess of \$4.5 million from public purpose items. We also know that we couldn't pay for it through the TIF and so we're paying that through the private development.

Kit Williams: The only other issue I think was brought up was parking. And, part of this project is to build a large parking deck. That's not being done by the City buy by the private developers, but there is a – how many car parking deck are you planning?

John Nock: We are anticipating 350 parking spaces on the deck. And those will certainly be available not only to the hotel user, but also to adjoining businesses and even those who will be coming in for conventions and that type of things. Were there any other questions on that?

Mayor Coody: I think not. Thank you very much.

Phil Ralston: There were just a couple that he didn't answer yet. The project plan provides for temporary replacement of twenty-five parking spaces. Whose parking spaces are we replacing? And how are we doing that?

Mayor Coody: Do you have an answer for that, please.

John Nock: One of the aspects in the TIF legislation certainly allows for displacement of people or businesses or I guess it could even go as far as parking. It certainly is in the statute and the idea there is that during the construction phase, there may be in fact people that are dislocated that – keep in mind there are people that park in the parking deck of the current Mountain Inn and the only way into that parking deck is underneath the existing Mountain Inn. Even before we contemplated and finally decided on tearing down the existing parking structure, you would have had no access point into the parking deck because the existing hotel would have been torn down, there would have been no access into the parking deck. At that point we looked at it and we said, okay what about the people that are running businesses – Taste of Thai, now the Hoffbrau has opened back up, and other people that are barely hanging on at Center Street, how do you allow them a place to park to where they're not run out of business during a twelve-month construction period. And so our – the option there is to look at either fair market value of parking, which is certainly in the area, City parking but those dollars will be generated out of the TIF bond proceeds and could be – certainly if the City supplied the parking, it would be reimbursable items. And if it came from private individuals, which the City could negotiate under the project plan, then it also could be reimbursed through TIF proceeds as well.

Mayor Coody: Thank you.

Phil Ralston: The one last item that wasn't addressed, I guess, since it says the project plan shall include the type and amount of any other revenues – are we to assume that we're not going to get any other revenues put into this fund since it's not in the plan?

Mayor Coody: There will be a...

Kit Williams: It's actually in the ordinance. I guess they didn't put it in the plan because there wasn't any other revenues they were anticipating putting in there. But one of the subsections of the ordinance says, "no other funds are expected to be deposited into the special funds". So yes, the City will not use other revenues to go into the project plan.

Phil Ralston: So when they buy this property from us, where does that money go? Or are they not going to buy this property from us?

Kit Williams: No, they're going to agree to purchase this property from us for \$300,000 and the proceeds of that should be used within the TIF district, probably for sidewalk enhancement and streetscape.

Phil Ralston: But won't that have to go into the fund? That's what I'm saying. That's part of the plan is to get money for selling this property to them and it needs to show that it's going in there somewhere. And we need to know the amount. You've said \$300,000, which is quite a deal for them, I think, but it's not in the plan.

Mayor Coody: Thank you very much.

Jill Nock: Do I need to state my name?

Mayor Coody: Yes, please.

Jill Nock: My name's Jill Nock. I'm married to the gel-haired city slicker that everybody talks so much about. My only intention tonight is to try to talk on some of the fears that people have and I would just like them to know about my husband. I challenge you to find a man with more integrity and a better father and a better husband. We chose to live in Fayetteville. We would never do anything that would other than benefit the City of Fayetteville. We care about the environment. We care about our friends. We care about our child's school. We chose to send him to public school and I just – I think that – I understand the fear that people have with builders and developers and people in the financial world, because we've seen both sides of it. And I just would like for you to know, from my perspective and my point of view that I challenge you to find a man like my husband. He is – he is a man of integrity. That's all I have to say.

Mayor Coody: Thanks, Jill. Congratulations on the new addition to your family. Anyone else have anything to add?

Kit Williams: Mr. Mayor, I didn't author this plan. This plan was created primarily by Hugh Earnest and the two developers. But I will note on page 10, it says upon the completionfair market value of about \$219,000. Since then the developers and I have agreed that they would increase that amount to \$300,000. There will be a contract before the City Council for that amount.

Mayor Coody: Thanks, Kit, for that clarification. Anyone else have any questions or comments for us tonight? All right, we'll move along to the D in New Business, which is the Highway 71 East Square Redevelopment Project Plan adoption.

C. New Business:

1. **Highway 71 East Square Redevelopment District Project Plan Adoption:** An ordinance adopting the Project Plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible, repealing Ordinance 4646 and declaring an emergency.

Kit Williams read the ordinance.

Mayor Coody: All right, I'll entertain a motion and second to suspend the rules and go to the second reading.

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

Kit Williams read the ordinance.

Alderman Cook: Mayor, can I ask a couple of questions, please?

Mayor Coody: Sure

Alderman Cook: That I didn't get a chance to ask earlier because I was thinking about something else. John, could I ask you a question about your numbers, please? A lot of the assumptions in here are on an occupancy rate of let's just say above 60%. And the going rates – and I know this data is dated, but most of the going rates are in – around 51%. And I'm curious what made that leap from 51 to in the 60's.

John Nock: I don't know where you reference 51 – it may be from the dated feasibility study...

Alderman Cook: In the two different studies that were in here for the...

John Nock: Yeah. I know that there was an updated study that was done and it was here recently – I want to say it was early spring of this year when the newspapers came out and did a survey of all the hotels. And this was after the new hotel, the Embassy Suites, was built – John Q. Hammons' hotel had been opened up. And the interesting part of that story is that they were at 75% occupancy because of the type of establishment that it was. Even the Clarion, if I recall correctly, there was some discussions about how he had had his best years back, I want to say in either '98 or '99, when it was still hovering in that 65 to 70% camp. This study, I can't speak for the professionals on why they came back with those numbers, but my memory was or is that it was based upon the type of product that is not being served currently in the Fayetteville market. I think – I think all of you for a minute, if something happened at your home and you had to go and stay at a hotel for your family, where would you go? And that recently happened to us. About two weeks ago we were doing some construction at our house and decided it was best to be outside of the house and we started looking at what Fayetteville had to offer. And it is really interesting. It was an eye-opener for me. Here I am working on a project and I started thinking about it because I never had to hotel need here before. So those numbers were based upon someone from the outside looking in. IHA is one of the leading international hospitality advisers. I'm sorry, they're one of the leading feasibility experts and their numbers were – as I recall right after 9/11 or within six months thereafter, when there was a tremendous drop in hospitality revenues and occupancy rates across the country, in fact some areas of the country in the coastal region were in the 30 to 40% at that point in time. And so I believe they looked at it, first of all – twelve to fifteen month construction period, and they also looked at the type of market this was going to be serving and based it also upon what was currently existing in the downtown area and what choice that would give.

Alderman Cook: Okay. So this – this list right here – the analysis, did you guys come up with this one or is this - the analysis of potential taxes generated...

John Nock: Yes.

Alderman Cook: You guys did this one.

John Nock: That's correct. And we passed a copy on to Steve Davis. And I think there's a disclaimer on there that certainly should be reviewed and looked at – I don't know if during the holidays if Steve was able to look at it or not, but this is simply based upon our projections on

the pro forma and then just taking the straight, across the board sales taxes and HMR taxes that would be generated under any other scenario. So we took our same numbers and applied it to this.

Alderman Cook: So that's - like the room taxes, that's based on the occupancy rate of - from of those other studies? Or you used...

John Nock: Yes. It's based upon - basically we took our pro forma, which came to us through the feasibility study and then just applied to it straight across the board the tax rates that we have here in the City of Fayetteville for both food and beverage, room tax and additional to that, the HMR tax.

Alderman Cook: Okay. Do you have all the necessary funding in place right now to do this project?

John Nock: Yes. We have recently just supplied to the City an update on that - Ithat was dated December 21. The actual hotel portion - and I can't hardly express enough how difficult the hotel portion is compared to basically everything else. There's such a demand for parking and the condominium - I wish Richard was here to talk about their success stories, he and his partners on condominium projects in the hotel market. And so those were never really the concerns. The concern was a hotel first and foremost in the downtown area. It's much easier to get financing for something along Interstate 540. Trust me on that because of just the traffic flows. And so we were working about a - for a two year process securing through the new market tax program, which is a Federal tax program whereby both banks or private investors invest in a project such as this - the hotel portion of it. And for so doing, there are Federal tax credits for this type of project, that has nothing to do with it being a blighted project, it has nothing to do with anything other than it's a new market, it fits a demographic and this project was deemed through these third party reviews that it would not only be successful but it would be a prime candidate for this. And so we received for that enough sufficiently to build the hotel portion of it, which we have addressed a letter from Heartland Renaissance Fund with their commitment for that and also the Bank of Fayetteville's involvement in that, which we greatly appreciate their involvement on the local level. In addition to that, we have all the remaining financing, some of that is obviously subject to what is approved here tonight, because certainly they are anxious and were very anxious the day that it came out in the newspaper that what we thought was an ordinance ended up being in question. And uh, but regardless of that, assuming that gets done, all the financing is there, including additional equity for any cost overruns that may occur. So we have three different components - we have the tax credits which come in - this is irrespective of the TIF proceeds - we have the tax credits which come in for the hotel portion of the project, and secondly we have the private equity and we have a secondary loan which goes on just the condo portion of that. Let me explain why that is. I've put that in the letter but since a lot of people from the public are not aware of that, this Federal new market tax program does not allow for the prepayment of principle during a seven year period because they want it to be an economic success that we just don't build it and walk away from it. So we're tied to it. We can't transfer it, we can't do lots of things for that seven year period. So obviously the nature of doing condominiums does not work that way. If you sell condos to people, they immediately want collateral for what they pay for it. And so we have a secondary source of debt financing for that project. But that one, as I mentioned before, was the easiest portion of them all.

Alderman Cook: And – I don't know if you can answer this – Kit, somebody, I'm – and I believe when you say you have the financing together, but just worst case scenario – the financing fell through. What would happen if we approve this plan, worst case scenario their financing fell through.

Kit Williams: According to Crews and Associates, when they did their evaluation of it as they reported to you the night that we approved the project plan, their evaluation included not the improved valuation of this project, nor the improved valuation of the Terminella project which is currently under construction on Spring Street, nor the old library becoming private and generating tax revenue. So even without this project being built, without the Terminella project, which is currently being built, and without the library, we are still supposed to easily finance the bonds, the \$3.5 million bonds that we're talking about issuing. So if this, we will have an agreement with these developers concerning if – to require them to build the project and – and with conditions of what will happen if the project is not built within a certain period of time or some major project, so that I think that we can be assured that if we go forward with this \$3.5 million bond issue that there's going to be something besides a hole in the ground there.

Alderman Cook: Well, I mean, I guess my comment is if it did fall through and they can't build it – they can't build it no matter what our agreement says. So, I mean what happens to that property then, is my question. Because, technically we're assembling the property and then we're selling it to them. So does that mean it's the City's property? Does that mean it's the district's property?

Kit Williams: It will be – it will be the City's property even if it's bought with TIF district funds. And so we are going to own it and then we will sell it to them. But we'll sell it to them on the condition that they do this and if they fail to do the project, then the property would have to return to us and of course we would then look for some other developer, I think. But it's much better to have one that already has a project plan in hand and substantial financing.

John Nock: And, Kyle, if I could add just a couple of points. The feasibility study done by the University Economic Research Department outlined in there a \$35 million available yield. That is not in the present value because you would not net present value on a bond issue because certainly a bond issue is already assuming the annual cash flows. So, that's a \$35 million but it's important to point out, and I'm sure the feasibility expert would – would also talk about what is in the study – that it does not include, as you said, these three properties. I know that Mr. Terminella is already in the midst of doing his construction. I can tell you that the financing not only is in place but we have also begun the gutting, the demolition of the interior of the library building and we anticipate a ten to twelve month construction period on the inside of that project. I can also tell you that based upon preliminary appraisals, that building, once it's all complete – we're putting in a substantial amount of reinvestment dollars and that should be appraising somewhere around \$4.5 million for the library building once it's completely redeveloped. I don't know the exact number for Mr. Terminella's project but I've been told it's somewhere in the \$4 million camp. So assuming that, that's another \$9 million and change, we also know that this hotel itself, just alone, is \$22 million. It actually has gone up because keep in mind we have increased the parking deck from its current capacity of about 85 spaces to now 350. That means that we have incurred more project costs, which are also in that financing package, as well as we have increased the value of the total project. So, what we did is we took some very simple numbers. We used the same growth factors that the feasibility study said and we also put those other three projects in there. And it's interesting to note, and I'll be glad to provide you with this information, simply a calculation in an Excel spreadsheet, it increases the available yield over the

twenty-five year period from \$35,466,000 to \$52,849,000. And so those three projects have a tremendous impact upon the numbers. They certainly do. Now one could certainly make the case that the millage that's collected could drop – not the mills but the actual collection from the mills - could drop. You have not seen that happen in the last several years. In fact, if I understand correctly, Amendment 79 puts us actually at a cap and because of that we have a residual every year because they only look back every three years. Not to get a long complicated story out of that. We currently have a surplus in this project and in the TIF district for three years because we're – by statute cannot do more than 5% on residential and 10% on commercial. So therefore that 9.9, although it might seem large, every time you have a major impact like a \$22 million project, it caps you out and that means you have a surplus for several years to come unless they change the Arkansas Constitution, which I haven't heard any rumblings of that yet. So, it may seem like it would be a hard number to reach, but we never really catch up in the State of Arkansas because of the way our tax model is.

Alderman Cook: One more question and I'll quit. And I've had citizens ask me this also. If we're going to put up \$3.5 million initially, bond issue, at what year would that bond issue be paid off, based on your projections?

John Nock: Let me just – I think this might help. The State statute says that it may not go beyond 25 years for a TIF, therefore you don't structure the debt longer than the life of the district. The only reason that debt would ever go beyond that is if there was a problem and you had to extend out the life. How quickly you pay it off is less of a factor of retiring the existing debt that would be on the Mountain Inn, the \$3.5 million, as much as it a factor of debt service coverage. Typically in economic circles, financial circles, they use a 125. So that means for every dollar that you would be paying for this bond you usually have to have a test of \$1.25. Once that's met additional bonds can be issued. Now your financial advisor would be best to advise you but that's usually what they look at. And so once you've met an additional bonds capacity test, then you don't have to wait for the whole issue to be retired, but you are able to issue parity bonds for additional projects based upon additional revenues being generated. So it's not an all or nothing scenario. You don't have to wait ten years, twelve years, four years, whatever the time would be, you have to simply wait until there's enough coverage to justify – and at a conservative ratio because you wouldn't want to just do it the first year, you want to make sure that you have – in fact most bond parity tests usually call for two year consecutive or three year consecutive reviews. And so it gives you enough time to make sure that it is not just a blip and then it falls back down and then you end up having a problem doing a phase two or phase three or phase four, whatever the time would allow.

Alderman Cook: I'm following you. So basically, you're saying, you're going to finance that \$3.5 million for 25 years and then as your revenue or your increments start getting bigger then you can think about financing other projects within that time frame.

John Nock: That's correct. And it also depends very greatly on how you finance the project. If you use typical financing plans, you're going to have principle and interest every year. You can set it up under different programs or do different things but I think the way your advisor mentioned the other night, they are most comfortable in saying – and correct me if I'm wrong, Kit – that the project for the 3.5 was, they were certain, quite certain they wanted to see – some time to see these expenditures come on and for them to generate additional taxes. Remember the whole nature of a TIF is that it is supposed to generate your money. Otherwise you should not do it. That article that was talked about earlier, the author of that article in the Little Rock paper said it would take eons for the Mountain Inn to pay for itself. Actually, eons is only three years

in this case because that's the time that you look back, remember the City – we have to build it, then the County, not the City, the County has to then reassess the property from its blighted condition to its now built condition and that takes three years. At that point in time the project will be valued at least the \$22 million that we've talked about, which should generate somewhere around \$200,000 in new taxes. It currently is paying \$5,000 in taxes in its current state, so it's a \$195,000 increase. That services a great deal of bonds.

Kit Williams: But how long it would last is also up to future councils. They can choose to, once the bonds are paid off, not issue any more bonds and end the TIF district if that is their choice or they can choose to issue new bonds if the debt service will allow it. It is capped at twenty-five years, but it is not required to be open for twenty-five years. It's really – the ball's in the City Council's chamber. It's you all's decision and your successors, a decision on how long you want to go forward with the TIF district.

Mayor Coody: Does that answer all your questions, Kyle?

Alderman Cook: Yep. Thank you.

Mayor Coody: Brenda.

Alderman Thiel: Well, you've brought up a good point. So, in other words, the twenty-five years is not necess...I mean that does not have to be the life of this.

Kit Williams: That's the maximum life.

Alderman Thiel: That's the maximum life of it. That's a – that's a good point. Okay.

Mayor Coody: We could – from what I understand we could pay off the \$3.5 million as soon as possible and dissolve the district at that point essentially or we could borrow other low interest money to do the other infrastructure work we talked about, streetscapes, lighting, tree planting, sidewalks...

Alderman Jordan: In other words we would go to phase two then – or not.

Mayor Coody: Phase two. Yeah.

John Nock: And the interesting thing is that, obviously because of the nature of incremental growth, all of your dollars generated are in the later years. So, you're going to get much larger benefits in years twenty than you are in years five.

Mayor Coody: Any other questions? Any other comments on this particular item? I would entertain a motion to suspend the rules and go to the third and final reading.

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

Kit Williams read the ordinance.

Mayor Coody: All right any other questions or comments? Yes, sir.

Alderman Marr: I just have one question. Do we have everything at this point that we're suppose to have in order to move forward with this project? Proper notice, all the items from the developer from the City staff's perspective, is there anything else that we're waiting on?

Kit Williams: Not that I know of.

Alderman Marr: Steve, is there anything else that we're waiting on?

Steve Davis: I believe we have everything we need at this point.

Alderman Marr: Thank you.

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

Mayor Coody: I would entertain a motion to approve the emergency clause.

Alderman Jordan moved to approve the emergency clause. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: All right. Thank you all very much. We will conclude the public hearing and thank you, Conrad, for your service.

Meeting Adjourned at 7:15 PM.

Sondra Smith, City Clerk

Dan Coody, Mayor

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Special City Council
Meeting Minutes
January 25, 2005**

A Special Meeting of the Fayetteville City Council was held on January 25, 2005 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Marr

Pledge of Allegiance

Mayor Coody: The first order is New Business. Number one is the Highway 71 East Square Redevelopment District #1 boundary modification.

Public Hearing:

Highway 71 East Square Redevelopment District #1 Boundary Modification Adoption: An ordinance modifying the boundaries of the Highway 71 East Square Redevelopment District Number One pursuant to A.C.A. § 14-168-305 (f) and A.C.A. § 14-168-307(c) declaring an emergency.

Kit Williams: Let me read the ordinance Mayor.

The city attorney read the ordinance for the first time.

Mayor Coody: Alright thank you. The first order of business is to explain why we would need to increase the boundaries, modify the boundaries. Do you have any input on that for the public?

Kit Williams: Mayor I think that part of this would need to go also to the developers and they could probably respond to that. But as I mentioned to the City Council in a memo that I sent out last week, there are approximately four options in order for us to do tonight. One of them would be to increase the boundaries of this district so there could be enough money generated with the three mils that are not in dispute and the seven mils that would be purchased by the developers if they so choose and were willing to do that that this project could still go forward. If in fact we do not increase the boundaries of this district to include the Downtown Master Plan area also then I don't think there would be sufficient finances to be able to finance this project plan. And I don't know if the project of removing the blighted Mountain Inn could be accomplished.

Mayor: Alright. Do the developers, petitioners want to address us on this issue?

John Nock: Good evening Mr. Mayor and Aldermen and thank you for the opportunity to speak again on this project.

In regards to the boundaries themselves, all of you were furnished I believe with a copy of the revision feasibility study that the Walton College of Business has provided that was hired by the City of Fayetteville. In those there are a series of tables that outline the available yields that would be available to service the debt over the life of the TIF. Without breaking each one of those down they range anywhere from approximately two million to on the high side, six million depending on the projections which one you look at. Projections can always be looked at different ways and they can be shopped different ways. Certainly over the life of the 25 year period there certainly will be additional mils that could be utilized. As well as there is a possibility and some people believe the probability that there will be eventually a case to be weighed before the Arkansas Supreme Court, thereby testing the recent opinion the Attorney General has come out in regards to the 25 mils and other mils as it relates to the debt service for a Tax Increment Financing and Redevelopment District.

On Table 7 if you have that available I think the numbers are fairly self-explanatory. We begin to utilize both the East Square as commonly called in the downtown. Baseline scenario for the TIF, for the millage and if we utilize the 7.66 as Kit Williams, the city attorney has utilized that is a net present value of 15 million and change or total available over the life of the project at 27 million.

Alderman Cook: John. Does anybody else have an Economic Feasibility Study?

Mayor Coody: Did we get that today?

Kit Williams: Steve had 21 copies run off I thought they would have been given to the City Council. Do we have those?

John Nock: I just received mine a few minutes ago.

Mayor Coody: Steve still has them.

John Nock: Ultimately. Does everyone have a copy of this Kit?

Kit Williams: Yes. Yes they do.

John Nock: Okay. There is also a second document that is the removal of Phase Two from the existing project plan which was for additional development projects inside of the initial project plan in the East Square Redevelopment District. Basically to put it in very quick layman terms, by reducing the amount of mils there is certainly not enough project area to cover the debt that is going to be financed for any project let alone just the Mountain Inn project. Until that is decided and if you'll go back in your memory to last summer when we first started talking about TIF's and their boundaries I was one the people who stood up in front of you as a developer on this project saying that is too large of a project. If you have multiple projects in a project area because of its size, then sometimes it is more difficult to manage. I think most of you all will recall me saying that. However because of the current condition, at least the current opinion of the Attorney General on the way that is being reviewed on what note it can be used in the State then currently no project could be built and if any, there would be very minor projects. And so, then it comes back down to an economic viability and what could actually be utilized.

Our project, if you include the total area of the Downtown Master Plan as initially prescribed by Dover Kohl to the city in the Downtown Master Plan, it can still be accomplished. That was one of the options that works. I know this might be jumping a little bit ahead, Kit but in order to do that there is still some question about the additional mils and we'd be glad to explain what we will do and step up to make sure that this project doesn't get lost in a timing issue. Are there any questions about why we're stepping up.

Mayor Coody: What's the difference between petitioner and developer?

Kit Williams: Actually I have a couple of questions. I think that, when I proposed the options to the City Council, one of the options, Option 3 was were we would not be able to raise the \$3.5 million dollars without expanding the boundary but we might be able to raise as much as \$2.5 million or with your purchase of part of that \$2.5 million because three mils would not raise very much at all. That would require you as the developers to put another \$1 million into the project and that are the two options that would keep the project going. Either that option or then the second option would expand the boundaries as you just stated. I think you need to explain to the City Council what your position is on Option 3 if we did not expand the boundaries.

John Nock: Sure. Option 3, if you keep the boundary the same its obviously less dollars. There's a couple of issues. One, is there enough to pay back any additional liability that we take on. Obviously this project as we've talked about before because of its blighted condition, because of the state it is in that's why you've not had developer's clammering to do this project over the last perhaps ten years. The economic sense to just put in more money on a project downtown on the square rather than just doing a project of the same magnitude on the interstate just doesn't make sense. But in order to do this, this is why we petitioned the city under the TIF legislation to be able to set up a TIF, and so to put additional dollars on the budget its just not there. So our viewpoint was until all these numbers get resolved through the courts we would resolve to take that away, that issue away from the city by buying the additional bonds. But the only way that we would want to do that is if there was some certainty that there would be additional revenues to cover it. By taking the risk we'd like to know there's the chance over that

25 year period that subordinated bonds that we'll be buying will help with the project. When we say we that's not just the developers that will be investors in the project that would be taking those bonds but it will be off the direct liability of the TIF District they will be subordinated bonds. Yes.

Alderman Ferrell: I basically like the idea of what's going to happen here and I have a couple of questions. I'd like to see the city and the developers working to make this a better town and look forward to working with more other developers in the future like this for the good of the City. One of things that does bother me is the how fast this thing is going to go down looking at it for tonight. So if you could explain to me how important time is on this.

John Nock: Sure. We started this process a little over, I think it was the spring of last year when we first started the process of the TIF District. It has been approved in its current form which is the existing East Square Development boundaries alone and the current plan that goes with it has been approved actually twice by the City Council and as I recall both time by unanimous vote. There have been, if I recall, each time there has been three opportunities to six total opportunities for the public to weigh in and to talk about the various opportunities that this allows for the city. Each time that we've had to extent that for one reason or another once it was for publication issues, another time not all the project plan was complete but for whatever reason each extension has required us to go out and extend certain contracts. There are private people that own some of the property and there are other contracts such as construction contracts that we've had to work through as well as towards the end of the year one of our local banks here, Bank of Fayetteville, actually stood up regardless of this all being completely resolved because at that time we thought it was resolved and agreed to step up under the new market tax credit scenario. There's a lot more to this project for it to be economically feasible than just the TIF. In fact we didn't expect that this would be something that we would go through three iterations of. Although tonight is certainly a critical junction we have certain contracts that on the 28th of this month begin to expire and some of those elements are very key for the total project. We've had it approved. We've had it done. It's not anyone's fault but after awhile when you're starting to deal with private folks they start to say I'm not sure this is ever going to get done and they start to question not only if you are saying that it's really going to get done or if you really are going to have some sanity about staying with a project after four years. Nevertheless there's the sense of timing because we have real contracts that expire on the 28th of this month.

Kit Williams: You mean the 28th of February right?

John Nock: The 28th of February. The 28th of this month we have to notify them specifically that we're going to make them close or at that point in time we lose additional money. So it's certainly a real economic issue.

Mayor: Another reason that we have to make these changes in short order is because the Attorney General's opinion that just came out the other day kind of threw everybody up in the air all over Arkansas. Everybody is trying to resolve the issues that his opinion has rocked.

John Nock: I think that around the state after having read the press that we have received, I am talking about the City of Fayetteville and this project, this project has been considered by most, I think they've labeled it the poster child of what TIFs were intended for both in the spirit of the legislation as well as the letter of the law. After that Attorney General's opinion came out we

had to sit down and really scratch our heads and say can this project still get done and how do we do it. It was after a series of meetings that we were able to come up with multiple options to present before the City Council and for the citizens to see if this is something that really does make sense. We thought that the best thing to do is to come back to the city with something that can in some ways really reduce your liability until all of these things are resolved.

Now lets talk a little bit about when you expand the district what that might do. Does that mean that Phases II, Phases III, Phases IV can not be done? No, it will still be just the same as it was before. If ultimately a ruling comes down from the Supreme Court or the law is changed and there's been some conformity out there then at that point in time you may have multiple projects in the same district. It's not like you are losing opportunities once that ruling would occur.

Secondly, until that time would occur you wouldn't be able to do other projects anyway of substance. You always want to do a project that has the largest economic impact because this is all based upon tax increment growth. If you're doing a very small project you would get very small increment versus a larger project that does the opposite.

Mayor Coody: Any other questions for Mr. Nock? Yes, sir.

Alderman Rhoads: Mr. Mayor I would like to make a suggestion I guess on our procedure tonight. As the champion of this, when we had our retreat I think we appointed champions for various things and this was one that fell in my lap. Of late I have been talking to a lot of people on all sides of the issues and I have a pretty good feel of what a lot of people think and overall I think it's perhaps the only way in the next three or four years that we're going to see something done with that site. With all that said though what I'd really like to do if it's alright with the rest of the Council and with you Mayor, is that I'd really like to hear, there's a whole lot of folks here for a special meeting and I'd really like to hear what's on their mind because I know after we hear them then there's probably going to a pretty lively conversation amongst us Council members. I think that might get us a better feel for some of the issues that are about to come up. If that's alright with you Mr. Mayor.

Mayor Coody: Oh sure that's fine. Mr. McGrady I think called earlier today would like to speak first. He has another engagement this evening. I might ask everyone that speaks tonight to please sign in so we can have that for the record.

David McGrady: Yes.

Mayor Coody: I might ask everyone to number one turn off cell phones and pagers. Number two keep your comments just distinct and brief as possible because I know that there will be a lot of people that would like to speak tonight and we would like to hear everyone.

Kit Williams: Mr. Mayor. I would also recommend that this also be considered the public hearing for the project plan at the same time. I think that you could probably have both of these. So if you'd open it up with the project plan also.

Mayor Coody: We will be opening up for both the district boundary modifications and the project plan and the public hearing for both of these concurrently. Thank you.

Public Hearing

Mayor Coody Opened the Public Hearing

Highway 71 East Square Redevelopment District #1 Project Plan Amendment: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the Proposed Project Plan Amendment for the Highway 71 East Square Redevelopment District Number One.

David McGrady: Good evening ladies and gentlemen, Mr. Mayor and the city attorney. Thank you very much for giving me the opportunity to come to speak to you this evening. This evening I'm speaking to you as wearing one of my hats that of the general manager of the Radisson and a citizen of Fayetteville. I have been in Fayetteville for five years and I've had the unpleasant site everyday of looking at the dilapidated Mountain Inn. Although there isn't probably anybody in this room that would disagree that it needs to go away.

As I was sitting here earlier looking at the goals for 2008 in the guiding principles of Fayetteville we have planned and managed growth. We also have the natural beautiful city. That whole section of town takes away from it dramatically from anybody coming into town. I just drove back from Little Rock this afternoon and looking at it is unbearable to see from that direction. I don't see it from that direction that often. I get to see it from the hotel.

It's my firm belief if we were to incorporate another hotel of this magnitude in downtown Fayetteville with those additional hotel rooms in conjunction with the other hotels that we currently have in Fayetteville, one being the Radisson as well as the other surrounding hotel rooms. The Town Center, the CEC, the meeting space that is planned for the Mountain Inn, and the meeting space that is currently available at the Radisson, we will be able to attract on a regular basis large citywide convention business.

Currently we have challenges in being able to facilitate those needs because we don't have the hotel rooms available to house all the people that would like to come into Fayetteville. We have unfortunately lost some large groups that if we had the space we could bring in.

Obviously to the north we have the Convention Center in Springdale with another one being planned up in Rogers. To our benefit at this point in time we have the Randall Track Center which has given us the opportunity to really capture a lot of convention business for Fayetteville. The end result of being able to bring that business in, I don't have the numbers in front me, but I can tell you that it will be substantial as to the impact that it will have citywide not only on hotels, restaurants and retail and not just for the heart of downtown it will be covered throughout all of the City of Fayetteville. I think that it is a prudent decision at this point. I know it's a difficult decision for you all to make this evening. I encourage you to muster up the best that you possibility can. All I can offer in closing is to say let it begin with you. Bring Fayetteville back. Let it be in competition to the rest of the different parts of the state and allow this project to go through with the expansion of the TIF district. Thank you very much.

Mayor Coody: Thank you Mr. McGrady. Who else would like to address us tonight on this issue? How are you tonight Ron?

Ron Bumpass: Good evening Mayor. Ron Bumpass, citizen of Fayetteville. You know I am not sure exactly where all this fits in. I've just been looking at the paper but as you're looking for additional funding to expand this district doesn't seem to be a particular problem. It's probably prudent. But I'm wondering if, now I'm talking to the Council now if I can get you to step out of the box in thinking about some additional revenue. It seems that one possibility would be to create an enterprise fund from the parking revenues, from parking meters and from parking tickets all the way through the court system and perhaps the parking deck next to the Radisson. Perhaps if you could calculate what that revenue is on an annual basis and then make that part of the TIF financing that might give some additional revenue to this TIF district.

Secondly, and I don't know if this is a possibility or if legislation could be passed for this but if you could likewise take the current sales tax collections from within the same district and establish a similar cap on those taxes collected within the district and then get the increased sales tax collected within the district as a funding component for the TIF. Possibility, I don't know if it's legal or not. Talk to your attorney.

And thirdly, you know we've mentioned this as blight and I have been involved in the redevelopment of the square for over 32 years. I was there as an attorney clerk for the law firm that had all the condemnation authority for urban renewal projects. I went through these buildings that we tore down, measured them and compared them to the appraisals and that's how I got interested in the Old Post Office building and saving that as a landmark. But I've known all along that the HUD money that we receive and that ya'll have authority over can be used completely for blight. I think that's what seven or eight hundred thousands a year. Now I realize that would take change in current policy and perhaps a long standing policy as I know that money is typically used in refurbishing 10 or 15 homes. But you could just as well, if you really want this thing to work, you could just as well say look this is so important we're going to change that horse and we're going to use that money to fund this blighted area for years into the future. All of which if you would explore those, I would certainly prefer to raising any property tax millage. It seems like this thing had a real good feel about it when we were talking existing taxes, capping them and taking the increase in taxes from the redevelopment for the revenue strength. So for my two cents that's it.

Mayor Coody: I have a couple of quick questions. You're still in the parking district. Downtown Parking District Board. Are you still on that?

Ron Bumpass: No.

Mayor Coody: I think that's a good suggestion. As a matter of fact that's something, we're looking at all options and that's one of the things we've been kind of looking at.

Ron Bumpass: I just wanted to throw that on the table.

Mayor Coody: I think it's a good suggestion. As for the sales tax that would take State legislation to change. I think there are some legislatures looking to make some amendments. I'm not sure what's involved with that to see if that's feasible.

Ron Bumpass: If it can be computed I don't see any difference using the increase from sales tax, as there is in using the increase of property tax values from the redevelopment of that particular

spot. If this doesn't work out I think that building should be razed in any event. I think it's not only blight, it's dangerous. Even if we had to put a park there for awhile until we figured something out it would be better than what we have.

Mayor Coody: Thank you very much Mr. Bumpass.

Alderman Ferrell: Mr. Mayor. One of things that Mr. Bumpass mentioned was the parking revenue and the fines and associated fees does that go into the General Fund?

Mayor Coody: Yes it does and we are looking at some options to see if that might be something we might want to consider as a matter of fact. Hello, good evening.

Jim Boyd: Hello. I'm Jim Boyd, a resident of Fayetteville for thirty years and have clients that have property in this TIF District. I spoke on behalf of this earlier and I know I'm telling you things that you already know but since it's a public hearing maybe it needs to be repeated. That is in free enterprise which fickle and has many opportunities to invest its money in lots of different places but if they are willing to spend and invest on the Mountain Inn millions of dollars then the City of Fayetteville to the extent it can needs to assist them. As the first speaker alluded we might spend a million or so seed money to get this project going but the rewards that we will reap as a result of a big fine facility down there for the City of Fayetteville and the increased revenue from taxes and all the merchants, etc that will reap the benefits will far out weigh the little bit of money we put in here at the beginning. So I encourage you to use your imaginations and do whatever you have to do to let this project proceed and not let this free enterprise money go somewhere else. There are lots of other places that are willing to accept their proposals. Another thing that I mentioned earlier and you should remember is it's not like we're dealing with strangers here. We know John Nock and Richard Alexander and know what they can do and have done and they're citizens right here along with us. So we have a comfort level of dealing with those guys. That's all I had to say. Thank you.

Mayor Coody: Thank Mr. Boyd. Who else would like to address us tonight. The next person that would like to speak I might get them to kind of cue up behind the current speaker so that we can kind of move things along more quickly please.

Mr. Rust: Members of the City Council. On behalf of FEDC in the letter that we sent you we support all the TIFs that have been talked about and tonight we specifically support this one. I was at a breakfast meeting this morning with Dr. Jeff Collins and one of the thing you need to be concerned about is one of the things I was concerned about in terms of supporting this is what are the numbers behind it. How do they work and I think you need to be comfortable with it. We talked about expanding the TIF district to include the downtown area. That appears to be a very good idea and I think rather than me trying to explain that and so forth I'd like to ask Dr. Jeff Collins to come up and just run through those numbers. Because I think it's important that the public understands that this is doable.

Mayor Coody: Alright, thank you Mr. Rust.

Dr. Jeff Collins: More than anything I wanted to be able to answer whatever questions you had about our numbers. I think given the fact that you have a document that you just got and there

are a lot of different scenarios that are in the document it would probably be helpful if I just open it up and anything you want to ask me I'd be happy to answer.

Mayor Coody: First I'd like to recognize Dr. Jeff Collins here. I might get you to sign in too please so we can have that as a public record. Thank you. What questions do we have for Dr. Collins? Yes, ma'am.

Alderman Thiel: Since we are discussing the plan at this point I mean this has just been thrown on us. We are up here trying to read this and can't even listen to the speakers because we've not seen any of this. I would like to know what the project plan is. I'm not familiar with it anywhere because in your feasibility study it mentions the Mountain Inn, Terminella Project and the library renovation which are all far removed from the west side of this district that we are talking about. All of the sudden we've sifted completely over on the eastside of the original boundary and we're talking about adding this to the west to make this work. I think we all want to make this work but I want to know what the plan is.

Dr. Collins: That is difficult for me to speak to. However what I can speak to is the implement and the difficulty in getting sufficient revenues out of the east TIF if that's all you're looking at to support the investment, infrastructure investment. Given the AG's opinion which of course who knows what's actually going to happen which is also one of the reasons there are so many permutations of the scenarios within that document that was handed you. Simply because there are different millages that may or may not be available. We were asked to consider multiple scenarios about which projects would be included and which projects wouldn't be included. We wanted to really give you a range to make a decision from a very conservative low end range into what we consider to be, I wouldn't say this is overly optimistic, I think that when you're talking 7.66 mills that may be optimistic, I don't know. Whether or not these projects are simply going to occur may be optimistic but I think those are relatively reasonable.

One of the interesting things about the numbers and I think it's important to keep mind that the best data that we have available to us to predict the future is what's happened in the recent past. In fact the further back you go the less reliable that information is to predicting the near future. Certainly there are lots and lots of "what ifs" scenarios. There are lots of things that may or may not happen. Really the data from 2001 to 2004 is the best data we have to go on in terms of establishing growth rates for certain property types. Those growth rates of course have been impacted by recurring development within those districts and within the city. Obviously when we go out and re-estimate those growth rates there are a function of things that have been taking place over that three year period of time and Fayetteville is a growing place. Obviously there has been a lot of property value appreciation over that period of time.

Alderman Thiel: Actually, I guess my question is we are discussing the Mountain Inn that's blighted. We've all determined that, I think everyone here agrees, that needs to be fixed. But all of the sudden this plan now has gone from that to add two more projects.

Kit Williams: I think you're not understanding this. When we talk about projects the only project that the TIF would be doing is the Mountain Inn. What he's talking about when he says projects is should he include the value of other things that are being built. And I wish he wouldn't use projects.

Dr. Collins: I apologize I didn't know my vocabulary was confusing.

Kit Williams: He's talking about other buildings that will be built and if you include the value of these other buildings in the millage, what will that make the millage? The only project we're looking at, the only project that we can possibly afford is the Mountain Inn project as was originally approved by the City Council. If you look at the project plan amendment that I gave up, the first thing that we did is remove all of Phase II because there's simply not enough money for Phase II. The only project that is economically feasible at this point in time, if you make that finding, is the rehabilitation of the Mountain Inn. The purchase of that and the destruction of that.

Alderman Thiel: Thank you.

Dr. Collins: My apologies for my vocabulary. I should talk about projects versus developments. When we were going through the various scenarios there were certain developments which we knew were going to take place or were already in the process of taking place. But with that issue of how conservative to be, whether or not to include those which I think is a no brainer. It's only obvious that they should be. You just have to drive by and see dirt being turned or not to include them. I think that in order to provide you with as broad a spectrum as possible to be as reasonable as possible they were either not included or included incrementally into the overall estimation of what increment would be available to pay off the debts.

Alderman Thiel: Okay.

Dr. Collins: Does that make sense?

Mayor Coody: Yes. Any other questions for Dr. Collins?

Alderman Reynolds: At what point are we going to talk about the expansion this district?

Mayor Coody: We're discussing the boundaries and the plan at the same time concurrently right now. You can discuss that right now if you'd like to.

Alderman Reynolds: Okay. Archibald Yell Boulevard, when we talked about this before, I told the people that are east of Archibald Yell that they wouldn't be included in this. Fifth Street, Fourth Street and that district. I think I already told them that we got them back in there and we took them out the last time.

Dr. Collins: I would have to defer. We take our cues in terms of which parcels are to be included from the City. So I would have to defer that question to someone else.

Kit Williams: The only change in the boundaries was towards the west to include the Downtown Master Plan boundaries. That was the intent. The intent was not to move it toward the east whatsoever but only move it toward the west to include what had been presented as the Downtown Master Plan Redevelopment District.

Mayor Coody: Tim do you know if we accidentally used an old map that had excluded properties put them back in? Do you have a copy of the map in front you?

Tim Conklin: The original project plan that was approved is the same boundaries as what we're discussing this evening. It has not changed.

Alderman Thiel: Mayor, I think the problem is that this amendment is including the downtown plan as part of the amendment?

Mayor Coody: Yes. The Downtown Master Plan TIF.

Alderman Thiel: Yeah, the area on the west?

Mayor Coody: Yes.

Alderman Thiel: A lot of those people had contacted Alderman Reynolds and me that lived in Ward One, the Ward One portion map. I don't think they were aware that we were going to be discussing their property, their boundaries again because we had tabled indefinitely that project because of the announcement from the Attorney General's office.

Mayor Coody: Yes.

Alderman Thiel: I think the concern is this is moving so fast without them even being aware that this is being included now in this amendment.

Mayor Coody: I understand now.

Alderman Thiel: I don't think anything has changed it is just....

Mayor Coody: It's the west side not the east side.

Alderman Thiel: Right.

Mayor Coody: Right. Any other questions for Dr. Collins? Any more questions on the economic feasibility? Thank you very much. Stick around we might have more questions for you. Who else would like to address us on this? Hello John.

John Newman: I'm John Newman, citizen of Fayetteville. Maybe the answer to this is obvious but I have one question. It would seem like the Mountain Inn property is if there ever was a property that was appropriate for condemnation that would seem to be it. My question would be why don't we just condemn it, take it, knock it down and sell it whether that gets us a hotel or an office building?

Mayor Coody: I can answer that. I wish it were that simple but we can force condemnation on a building and have it torn down and we can put a lean on that property for the current property owner that owns it. With a lean on it we wouldn't own it. The current property owner would continue to own it even after we had poured money into tearing the building down and cleaning the site up.

Let's just use some random numbers. Let's say that we had \$880,000.00 in the demolition removal of the building. We would condemn the building, demolish it. We'd have \$880,000.00 or a million dollars in the removal of the building and then we'd put a million dollar lean on that piece of property. Then if someone wanted to buy it they would have to satisfy the million dollars lean and then it would still be owned by the current property owner. So we wouldn't have any control over what might go there. She could sell it to whoever she wanted to sell it too. So we wouldn't have any control over the future of the downtown area there if we just condemned it and destroyed it.

Kit Williams: Mr. Mayor that really is Option One that I presented to the City Council that they can in fact use General Fund money to attempt to raze and remove this building. I'm sure there would be litigation involved. I think the owner would say no it's not blight enough but I think we could prove our case. It would result in the kind of problems that the Mayor just spoke.

There is another option. The City Council under Option Two could issue enough bonds that they could possibly condemn the property through the TIF District. Then it would be disputed about how much we would have to buy the property for. I personally don't think it is worth much more than what it would cost to tear it down but that would be decided by a jury not by us. If the jury decided on too high a figure then we couldn't afford to buy it and tear it down. So we might have to buy a property that would be our problem from then on. The City Council is not required to either enlarge the district or to do anything else. They can if they want to determine that, because of the Attorney General's opinion, there's not enough funds to do the project as conceived and they just will not want to go forward. Those are certainly options that the City Council will weigh. However both of those options have costs because if there is a blighted building there, I think there is some responsibility on the City to try to protect the buildings around it by condemning that property and that would be an expensive proposition.

John Newman: And so the issue is control over what happens.

Mayor Coody: That's one. We'd have a million dollars in piece of ground out there that we might not see again. We might never see anything become of it. It might become just a cleared site with nothing on it for years to come and we would have a million dollars in it.

John Newman: Versus what three and half million.

Mayor Coody: That would be coming out of the General Fund and it would go toward a twenty three million dollar hotel project and convention area in the downtown, right here in the downtown versus just a brown field site. That would be paid back as well you're right. Thank you. Mr. Andrews how are you tonight.

Michael Andrews: Good sir. My name is Michael Andrews, lifelong resident of Fayetteville. Although neither of my businesses that I own here in Fayetteville are in the current TIF District or the expansion that's proposed I can't see anything but good that would come to my businesses if this project were done. I've seen the plans. I've heard everything and read everything about it and think it would be a good project for not only the businesses here in Fayetteville but every citizen here in Fayetteville. So whatever we can do to make this project move forward, whatever it takes for the City of Fayetteville to get this project on the ground and running I think that's what we need to do. Thank you.

Mayor Coody: Thank you sir. Hi Mr. Butt.

Jack Butt: Good evening Mayor and Councilmen. My name is Jack Butt. I am, along with others, the owner of several properties literally across the street from the Mountain Inn. We are obviously here to see this blight resolved by the creative and diligence of Richard Alexander and John Nock and that group. Forgive me for being ignorant on this but I have been vaguely interested in other projects like the city incinerator, using sales tax to build schools, how rollback taxes apply to the county, and each case the county, the city, the schools trying forward thinking ideas, original creative ideas perhaps something like Mr. Bumpass suggested. I'm not suggesting his ideas are wrong but they try to find a creative way to go around a road block and every time we got our socks sued off. We lost four or five years, million of dollars in attorney's fees alone and tens of million of dollars in tax refunds. I don't mean to say there's any danger with this and I trust that Kit Williams is an excellent attorney, but if there's a safe way to do this, do it the safe way, do it the conservative way. Attorney General opinions aren't worth warm spit. In every one of those cases I told you about there were Attorney General opinion's that supported doing what was done and the Supreme Court overruled them. If there's any doubt about at all then forgive me. I don't know if there is any doubt if there's not that's great. If there's any doubt at all resolve it to a friendly suit. Don't get tangled up in five years of class litigation.

Mayor Coody: Thank you. I want to comment on your comments. We are all of the opinion that we want to avoid any kind of illegal tax, tax exaction, illegal exaction, and any kind of lawsuits. That's why we're being very cautious. Of course we're moving at light speed it seems but we are very concerned about doing things well. As matter of fact we're reacting very conservatively to the Attorney General's opinion. His opinion went against what we thought was approved by legal and we're taking that opinion very seriously instead of just relying on it and doing something. We're taking the other approach. We're relying on a very conservative opinion but our attorney, Kit Williams is very concerned. We're all very concerned about making sure we do things legally and well because none of us want to get sued. None of us want to lose money in a lawsuit.

One of the things in our plan which is, and I was going to bring this up in a little bit, is if we approve this tonight then we would be basically approving authorization of an injunctive or declaratory judgment suit versus Washington County Assessor. That is not the final word on what the Supreme Court is going to say even though the County Assessor is exceptionally good and we owe her a debt of gratitude for working so well with us and she's very good at what she does. We figure that we might have to force some kind of injunction just to have the judge or some jury tell her and us what we can do, what's legal because none of us really have the answers right now.

Kit Williams: I do want to say, you may call that to the Council's attention that you would be authorizing me to have a declaratory judgment or injunctive suit basically to protect the County Assessor about the proper disbursement of that. I think in that way hopefully we could avoid any possible illegal exaction suit because the tax will never be given improperly. Without such a suit, she would have to make an educated guess and as you know in the past sometimes those educated guesses have not come out right and that can result in substantial taxpayer losses. So I agree with you Jack, I think this is something we need to be very careful with.

Jack Butt: I perceive you're talking about a friendly suit and those were discussed and passed over on these prior tax disasters.

The second matter I'd like to follow up on John Newman's idea, and I don't dispute you Mayor Coody but I think if you take it to its logical conclusion, if the City were to spend more than a million dollars to cure this blight and even Mr. Alexander and Nock weren't out there, I think that's a great idea. I mean you've got a danger, an eye sore and impairment to the economy and something has to be done about that. Now if we've got some white knights on the horizon that can build us a five star hotel we're incredibly lucky but even if he doesn't I think the city needs to do something. So if we raze the building for a million dollars, I don't know if we can find that in the budget and we get a lean against the owner. Now the owner, if I understand it, and I guess I'm posing this as a hypothetical for Mr. Williams to comment on, if the owner doesn't pay the City the million dollars then we foreclose. We put that property, cleaned up slick as a hound's tooth ready to sell to a developer and put it on the market at the courthouse steps. That's what you do when you foreclose a lean. Then we're going to have people bidding on it and I suggest Mr. Alexander, Mr. Nock, Jim Lindsey, any number of investment groups from all over the state, the region and the United States, are going to be pretty interested in a slick acre or two in downtown Fayetteville that's clean and ready to go. Now if they only bring \$200,000, the City is out net \$800,000 because if \$200,000 bided in, you're out \$800,000 but you cleaned the site up. I don't think you're going to have chancey, iffy, patchy, uncertain buyers bidding on a site like that. I think you're going to get blue chip bidders. Whoever buys it, maybe they will put a hotel there, maybe they will put a huge suite of offices for rent or maybe they will put a high rise apartment building. That's free enterprise at work, the most the City can lose is \$1 million and that's if nobody in the world steps up and buys it. I'll write you check tonight for \$300,000 to buy that site and get it cleaned up, I'll do it. Now I imagine that there's plenty of people that can write a check for two or three million dollars to have that site cleaned up. I think the real risk to the City on razing that site is zero, the worst case, a million dollars. Somebody could step up and pay for a clean site in downtown Fayetteville across the street from two courthouses, down the street from the convention center, and we're the only convention center site in northwest Arkansas that has walk ability.

I put people up in the Embassy Suites and you can't walk anywhere from the Embassy Suites. You put them up at the Springdale Convention Center. They can't walk anywhere. If you put them up down there then they can walk to gardens and retail shops. We've got the pieces to go with it. Now I'm not arguing against the TIF but if that's a bridge too far I think the City ought to condemn the thing and raze it in a second and I bet you'll have your money back in a year. If you make any money over what it cost to raze then the owner would get the money and we're all happy. But I think, unless I'm wrong, the owner doesn't still control it. You can foreclose against her, sell it at auction and people will step up and bid on it.

Mayor Coody: That's one our options. If the TIF is a bridge too far then I think that will be our next logical option because we all want to see this situation resolved.

Jack Butt: I don't envy the hard decisions you have to make. Thank you for taking the time to do it.

Mayor Coody: Thanks for the suggestions. They're all good. Thanks Jack. Hey Rob.

Rob Sharp: My name is Rob Sharp. I'm the architect for the East Square Redevelopment Project and I'd just like to very quickly make two points. First of all I want to personally assure the Mayor and the City Council that everyone on the development and construction team is going to make every effort to design and construct a building that's going to be a credit to Fayetteville in every possible way. I know we just heard from the previous speaker about possible future projects that might happen in the next few years with possible future developers. I think we really ought to be careful that we don't lose what's taken years to put together on another second guessing of what's going on here. I think that the team you've got is a good team. I think you know we've got people that have been willing to renovate the Campbell-Bell building. Imagine the Fayetteville square without the Campbell-Bell building being renovated with the TV studio in the ground floor or imagine the University of Arkansas without Carnal Hall. I mean this is a team that can do it, put out projects that you can be proud of.

The second point is that this is a tough project. Before this current group I've worked with other developers and they couldn't make it work. I tried to get other out-of-state investors interested in it and they were of the opinion that you could give them that property and they could still lose money because of the condition of the building and difficulty of trying to make that work on that tight site. I just want to make those two points that if this TIF can be approved in the amended format we've got an excellent chance of having a great building.

Secondly no matter what happens this is a tough project and that's why it has taken as long as it has. Consider carefully before we close the door on this one.

Mayor Coody: Thank you very much Rob. I want to ask our attorney, Kit Williams a question referring back to Jack Butt's comments.

Let's just say the TIF doesn't work for some reason. What if we were to go to the raze and remove route, how long do you think it would take for us to have control of that piece of property if ever? What's your assessment?

Kit Williams: We could certainly have it eventually. One of the problems would be of course if you look at this particular project as being proposed and approved by the City Council in the past, it wasn't just the Mountain Inn. There were four different properties there including the Courts Building and two other buildings in order for not only the hotel to be built but a parking deck to serve the hotel and the condominiums also. We can't condemn the rest of that property. We can only condemn the one piece coming out of the middle. That would make the demolition more difficult and expensive I think because you would have buildings on both sides of the Mountain Inn. There would be some question about whether you could save the arcade section which I think they are planning on doing. The historic part by Center Street I think the current developers are intending to attempt to save that. If we condemn it I think we'd have to tear everything down. I don't think we can pick and choose and say well we'll tear everything down but the façade. Either the building needs to be razed and removed or doesn't. I don't think we really have the legal option of not doing it. I think eventually we would be able to gain control of the property through a tax lean or foreclosure as Mr. Butt explained and at that point in time if we didn't bid on the building or the land which I don't think we would have, we actually wouldn't control it. It would be whoever showed up on the courthouse steps and bid the most money. They would be the ones that would own that property. We would get some of our lean

paid off but probably the rest of it would be discharged and so we would only get a portion of whatever money we have invested back.

That is certainly an option the City Council has. If you think that this TIF District is not feasible or if this is not the kind of project you feel like is still what you want to do then you certainly have the right not to go forward and not to enlarge the boundaries and to basically repeal the former project plan and at that point the City would have to look toward doing a condemnation action which I think would be successful. They could challenge it. They could say the parking deck is still fine, I mean people can still use the parking deck. They could say this shouldn't be razed and removed. I might disagree with them but they would probably have enough of an argument to go up to court.

So whatever we're going to do in this case I think one way or another unfortunately there's going to be more work for my office. I think we're going to end up in court regardless of any decisions you make tonight one way or the other.

Mayor Coody: Thank you. Hello Ms. Hoover.

Sharon Hoover: Hello. Sharon Hoover with Fayetteville Downtown Partners. I would just like to point out that our board met last week and we have a letter from the board in support of the Mountain Inn Redevelopment Project. I just wanted to make sure that you got that. Thank you.

I want to I guess address the two issues tonight one is the boundary. The boundary that is suggested now is exactly what's listed in our Downtown Master Plan that the community came up with. I guess I'm confused why anyone would have a problem with these boundaries. Is there something in Ward One that I'm not understanding.

Alderman Thiel: Uh huh.

Sharon Hoover: What is it?

Alderman Thiel: The people that live down there.

Sharon Hoover: Did they go to the master plan community sessions?

Alderman Thiel: Yeah they did. Actually some of the people did participate and they were going to be at the last meeting when we were going to discuss this area but they knew that it was tabled because of the Attorney General's opinion. They were not aware that tonight we were going to be discussing this expanded boundary.

So it's their interest I am concerned about. I have no way of contacting them. If we're going to be try to make a decision tonight I think we owe that to them to let them have their say about this.

Sharon Hoover: Were there particular issues? I'm just not aware. I'm trying to learn here.

Alderman Thiel: I think they have issues with being within the TIF.

Sharon Hoover: In general.

Alderman Thiel: In general.

Sharon Hoover: Okay.

Alderman Thiel: I think they at least want to have their say about it. I may try to amend this to exclude a portion of this. It's a very small portion but it would include the area of the people that are concerned. I'm not sure that they are here. They've contacted both of us and so that may be how we handle that part.

Sharon Hoover: Okay. Thank you. I will try to figure that one out. The other question I have on the project plan, is it possible to amend it at a later date?

Mayor Coody: Yes.

Sharon Hoover: To keep things moving?

Mayor Coody: Yes.

Sharon Hoover: Is it very easy to do? That could keep the developers on track and keep this going. I'm concerned also, we've got some great developers in line to do this project and I certainly wouldn't want to lose them even though Mr. Butt suggested some other good solutions. They certainly have a good track record for us in town and we certainly like to do everything we can for them.

Mayor Coody: Yes.

Sharon Hoover: So if that's a possibility I guess I'm not seeing any problem with the project plan at the moment. Thank you.

Mayor Coody: Alright, thank you Sharon. Who else would like to address us tonight. How are you Cyrus.

Cyrus Young: Just fine. I would like to talk about the millage again. That's what I talked about the last time. There's two scenarios there one with 3.16 mils and one with 7.66 mils. We're talking about the base here. What millage are those in the two scenarios.

Kit Williams: The smaller millage, the three point something millage is basically, I think, undisputed that could go into the TIF District according to everybody's best understanding.

Cyrus Young: What does it include in other words?

Kit Williams: That would include all the millage for the city library one mil, the police and fire pension plans both have a total of point four mils, and five mils from the county and then one point something mils on the county road tax.

Cyrus Young: That's the 7.66.

Kit Williams: That's the 7.66. To get down to the three mills the school district's interpretation of the debt service ad valorem rate is that whatever their debt service was in 2001, even if that's no longer millage supported by debt service, that they're still entitled to the tax increment for the amount that they had in 2001. I don't think that's proper. I think that would violate the constitutional provision that says a tax levied for one purpose cannot be used for another purpose. I don't think you can take the millage increment that was supposed to be for the library and transfer it to the schools.

I think Amendment 78 said that in the one circumstance when you create a TIF District you can divert millage that had been passed for one purpose and use it for the tax increment financing district but I don't see Amendment 78 as changing the constitution saying that a tax for the police and fire pension can be transferred to the school. So they are actually getting more millage than currently have been passed by the voters for them. That is the issue that would have to be decided by the courts and that's why I would attempt to get the case to the courts so that the judge could decide that issue.

Cyrus Young: So are you saying in the 7.66 mills there is some school millage?

Kit Williams: No, 7.66 mills is everything but the school millage.

Cyrus Young: So the 3.16 definitely doesn't have any.

Kit Williams: Right. The 3.16 would be if you use some of the tax increment increase and give to the schools even though they don't have a mil at this point voted in by the voters to entitle them to that.

Cyrus Young: Okay, now the other thing is the developers are talking about secondary bonds. What would pay those off, the 3.16, the 7.66, or either one depending on how the courts rule?

Kit Williams: The 3.16 would not support them. The 3.16 would only support the primary marketable bonds that we call in. Actually the marketable bonds would have all the tax increment financing pledged to them initially. The other bonds would be sub servant subordinate to those bonds without recourse against the City or the TIF District if they weren't paid off in the 25 years. They would be paid basically after the other bonds were paid.

Cyrus Young: Or if the courts ruled that the 7.66 is allowed.

Kit Williams: Yes. We could have a provision in there that if the courts do rule that the 7.66 is in there and there's sufficient debt service to support the original marketable bonds that the other bonds could begin to start being paid.

Cyrus Young: Thank you.

Mayor Coody: Anyone else who would like to address tonight please. How are you tonight?

Daniel Hintz: Doing well thank you. Thank you for allowing me to speak this evening. My name is Daniel Hintz. I'm a resident on the south side of Fayetteville. I think one of the important things about the Mountain Inn TIF we shared a lot being said that it is a gateway to the

downtown district. I'd like to flip that around and say that it's also a gateway to the south side of Fayetteville. People coming in from the north to the south they see this blighted building, they come down to the south side and they also see some of the issues that we're dealing with on a daily basis on the south side. As a symbol for what is possible I think that the Mountain Inn project takes on a larger meaning than just economic development. We're talking about showing those of us on the south side that Fayetteville is committed to changing some of these blighted issues. Those of us who do live on the south side have talked about this. I was at a neighborhood meeting last night and this issue was talked about as an important potential development. I really see this even if we flip this around as a gateway to the south side that philosophically I think this is a very important project. This may open up a lot of different doors for those of us that live on the south side to implement projects. It's almost a domino effect is the way I see this Mountain Inn project. I really hope that as you go over the options that you actually are able to make a decision in a timely manner that will allow all of us who are working on both the grass roots level as well as those working on a larger level to be able to work together to not only help the downtown area but also the south side. So thank you very much.

Mayor Coody: Thank you for that prospective. Who else would like to address us tonight? How are you Mr. Ramsey?

Bill Ramsey: I'm good. How are you Mr. Mayor. Members of Council. I don't think probably any of us necessarily wanted to be here tonight. We thought when you passed this Mountain Inn TIF unanimously you had done your job. I think the only reason you're here tonight is because of the Attorney General's opinion. The only reason for enlarging the district is to make it feasible so that you can utilize this tool that we so badly need. I think you've got an opportunity and this may be an opportunity lost if it's not done. I think you heard Rob Sharp just say that if that's a bare piece of ground out there you're probably not going to be able to attract a developer that's going to put a hotel there.

I can tell you that we started working with these developers at the Chamber of Commerce way back. We're getting state people together, federal tax credits and they just told you tonight that there's some very time sensitive things that you're dealing with. Those opportunities are going to go away. Kit you know I don't understand the legal part of every thing. I probably should know about TIF but as far as impact to individual property owners I don't think there is any. You just freeze the rates at what they are and the increment is what helps pay off those bonds. That's the reason why you're talking about enlarging this district so that you can increase the increment and make it feasible. You wouldn't have to do that if we hadn't had the Attorney General's opinion. You know the track record of the developers they have worked hard and secured some tax credits. They have said publicly, they have said privately without that help they can't do this project. If we don't do this part and establish this TIF or at least come up with some way to assist them and if that help goes away the project is going to go away and we're all going to sit back one day and say hey we let an opportunity slip away from us. Let's not let that happen. Okay? Thank you.

Mayor Coody: Thank you sir.

Richard Alexander: Mayor. I'm one of the developers, Richard Alexander. I would like to address just a couple of the concerns that I heard tonight in addition to the comment. This is a very time sensitive project as Bill said there are federal tax credits involved if Bank of

Fayetteville was still here they would step forward and they would agree to fund those. That funding has to take place within twelve months. So we have to develop the plans, commit the money, get the firm commitments on the rest of the stuff, we started this three, four, five months ago. I thought the last time we passed it the second time 8 to nothing we were done and we were firming up our commitments and of course the Attorney General's opinion threw that on hold.

The plan is the same; it's the Mountain Inn plan. The only thing we're asking you to do here is to expand the district to make the reduced millage that we're left with sufficient to fund at least some of that original plan with the developers going out and finding additional investors to take up the slack. We're only talking about funding that part of the plan that is with that millage that is largely not in dispute as I understand it.

The consequence of not doing it tonight means that our contracts expire. We will be having a conversation with the Bank of Fayetteville first thing in the morning. So far they've been very gracious in staying in place and not panicking about their rather precarious position at this point. Because there's a significant fee that the bank will incur by way of funding the new market tax credits. That's a real issue for them and from our prospective it's absolutely imperative that we get an answer tonight. If we don't its going to be difficult to hold all of the pieces in place that's taken three years to put in place.

The real question here is with respect to the expansion of the district boundaries, I've been studying TIF now for probably longer than I wanted to. There is no down side to being in a TIF district. There's no down side whatsoever. There is a down side in being outside the TIF district in that should money become available to spend on subsequent projects that money may not be spent on property outside the district. Only property in the district can have money spent on it. So for instance, if a project is lighting trails, sidewalks or parking decks, you may not spend those monies on properties outside the district. You can spend right up to the district boundary. From my prospective I don't see the down side to being in a district, there's no additional tax but there is a down side to not being in the district. Again it is difficult for me to articulate why somebody wouldn't want to be in the district there is no tax and no down side to it. This is a twenty-two million, twenty-four million dollar project. I think we've shown the Council and shared with the Council estimates of revenues to be generated by this project are anywhere from thirty-five to forty million dollars. Whatever the investment is in the tax, by way of the tax increment financing, whether that's two million or three million or three and half million the return on that investment is ten plus fold in terms of revenues generated and that's in tax revenues generated. That's in addition to the revenues, the jobs and the increased property values for the properties adjacent to this.

The alternative to losing this project is the various scenarios, condemnation, whatever. Those are all alternatives, Kit has outlined them. The down side to that is that it will take years. The drag on those properties adjacent to this project will continue. If you'd look at this project, the Mountain Inn itself, I think I've seen estimates of approximately 100,000 square feet of hotel and commercial space that's been abandoned and blighted for years. In addition to that there is at least another one hundred to hundred and fifty thousand abandoned or under-rented, under-utilized space adjacent to the project. All you have to do is walk around down there and you can see the store fronts that are closed. The properties that are vacant are generating no revenue, they're generating no tax revenue, they're generating nothing.

If the concern is the schools, the schools aren't making any money off this project. The schools will make more money when this project is complete by virtue of the increase in that portion that they'll get to keep. I think its two hundred thousand a year, nine hundred thousand before the Attorney General's opinion. How much a year, one hundred thousand before the Attorney General's opinion, two hundred thousand now. The schools or the State of Arkansas wherever that money ends up, there will be an increase in that revenue between one hundred thousand and two hundred just on the project, and that's not counting the increase on the revenues that will be generated for property taxes and sales taxes on the properties around it.

Again, this is very time sensitive and I know it's not your fault. We appreciate your support before. You passed it 8 to 0 twice and we're very grateful. We were thrown a curve ball. We've worked for the last while with city staff and Kit to try to find a way that's legal, conservative and doesn't try to plow any new ground but really tries to accomplish what we thought we were doing before. Again with respect to the project it's the same project, it's just less millage. The expansion of the district makes up some of that not all of it.

Personally after spending three years on it we just weren't ready to throw the towel in but there comes a point that we can't just keep holding everybody off indefinitely. We'd sure like to try to make it work out and we're trying to figure out ways to take on the difference between what the expanded district can generate and what will be available. So thank you very much.

Mayor Coody: Please don't forget to sign in Richard. Do we have any questions for Mr. Alexander? Who else would like to address us on this issue? Hello Jeff.

Jeff Erf: Quick question which came to mind when Kit Williams was responding to Cyrus Young. I thought I would try to ask the question and maybe you can clarify something for me. Let's say hypothetically the citizens of Fayetteville voted to increase the library millage a couple of percent, a couple mils. Would all of that tax revenue that was collected based on that millage go to the library or would any of that be redistributed or directed to the TIF District?

Kit Williams: My understanding is that the base value of the property would still apply and so the new millage would be applied to the based value within the TIF District. The increment would then go to the TIF District with the based value continuing to go to the library and then everywhere outside the TIF District would get the full amount of the millage including the increment.

Jeff Erf: Alright so the properties that were on the inside of the TIF District the tax revenue there that was collected from the increment would not be going to the library.

Kit Williams: The increment of all the millage of local taxing entities except the indebtedness to the schools, would in fact go to the TIF District. The increment, not the actual millage itself, the base value millage would still go to the taxing entities.

Jeff Erf: Thank you very much.

Mayor Coody: Mr. Wright was that a fair assessment? Okay. Thank you. Are there questions or comments from anyone? I'm going to close the public hearing on this session.

Mayor Coody closed the Public Hearing

New Business:

Highway 71 East Square Redevelopment District #1 Boundary Modification Adoption: An ordinance modifying the boundaries of the Highway 71 East Square Redevelopment District Number One pursuant to A.C.A. § 14-168-305 (f) and A.C.A. § 14-168-307(c) declaring an emergency.

Kit Williams: Although I do think it might not or might be appropriate to have either now or later, when we are talking about the project plan, to have Mr. Wright and Mr. Wilbourn address us.

Mayor Coody: Alright, what question do we have for anyone? This is for the City Council now.

Kit Williams: This is back really to the ordinance for the boundaries.

Mayor Coody: Yes, ma'am.

Alderman Thiel: I understand that there is an urgency to pass this and I certainly support the project plan. As I said I am concerned about a very small portion of the extended boundary and only because those people have contacted us. They weren't notified of this. They did have concerns and I would not be supportive of passing the portion that includes their property. Is there anyway I can amend this to exclude a very small portion and I will try to define it.

Mayor Coody: Certainly.

Alderman Thiel: Although it actually does not follow streets.

Kit Williams: It is your determination as a City Council to determine the appropriate boundaries.

Alderman Thiel: Okay. Everyone follow with me here. Locate Putman Street down in the left corner there, actually it's Rock Street. It's Putman on the left-hand side and Rock on the eastside. Okay if you'll follow Putman and take it across Gregg Avenue.

Alderman Lucas: Which map are you looking at?

Alderman Thiel: I'm looking at the TIF District map. Putman is lined up with Rock Street okay. Okay follow Rock Street over.

Alderman Thiel: If we take Putman from the west boundary of the district over and extend an imaginary line crossing Gregg Avenue to approximately where our new trail is or let's just say the creek, follow the creek down which is kind of along Gregg Avenue south of Prairie.

Kit Williams: All the way down to Prairie.

Alderman Thiel: That it all way down to Prairie where it would run into Gregg Avenue that runs into Prairie. Those will be straight lines that would be a straight rectangle and exclude that area.

Mayor Coody: How many is that?

Alderman Lucas: From Prairie you're going all the way down to Gregg Avenue.

Alderman Thiel: Go west on Prairie, back up Gregg, follow the boundary of the current TIF. So all you're excluding is Putman over from the west TIF line then follow Putman over to Lee Creek, go straight south to Prairie, follow Prairie back over to Gregg and then back up and just follow the TIF line.

Kit Williams: I don't think that would probably change any of the economic liability.

Alderman Thiel: I don't think so.

Kit Williams: Because there's probably a fairly small amount of property value in there.

Alderman Thiel: But there is a group of people there that have formed and are very concerned about this. They might not be opposed to it but if we pass this tonight which I am not opposed to doing I would feel I could not support passing this tonight without excluding this because they're not aware of it.

Alderman Rhoads: Brenda, I don't mean to meddle in your ward but I'm wondering might there also be people in that little area that you carved out or proposing to potentially carve out that might feel total the contrary and want to be in it.

Alderman Thiel: There might be but they're not here and they don't know about this. The people we've heard from are concerned. I'm not saying that they might not support it. They haven't had the opportunity, if we're going to pass this tonight, which I'm not opposed to doing because I understand the urgency. Now if we want to table this and discuss this a little later, we can forget this.

Alderman Rhoads: I'm trying to understand why people would have contacted you, this group of people that have contacted you, why did they not want to be in the TIF District?

Alderman Reynolds: Well it's a very low income area they don't want to be included in this.

Alderman Rhoads: Why? Did they say.

Alderman Thiel: Let me also add that I don't know if they wanted to be part of this meeting. They were not notified of this meeting.

Alderman Jordan: I think that's the point.

Alderman Thiel: That's the point Robert.

Alderman Rhoads: I thought the meeting had a 10 to 12 to 14 days notification.

Alderman Thiel: Of this new boundary?

Kit Williams: The notification was for the amendment to the project plan. There has been extensive media coverage talking about what the various options were. There was not a specific notification about the change in the boundary because one is not required in the ordinance or in the statute.

Alderman Thiel: Right.

Mayor Coody: How many people total have contacted you about this?

Alderman Thiel: Probably about five or six.

Mayor Coody: Okay.

Alderman Thiel: There's only about five or six houses in this area.

Kit Williams: I think this would be an insufficient change on the boundary and would not make any difference at all in the economic viability of the plan. I'd like to ask Jeff Collins if he wants to comment on that. I have my map drawn out; it's this one little section down here along Gregg Street.

Dr. Jeff Collins: Go to page 18. I want you to look at the difference between where it says the East Square, plus you can actually take any of these that you want the difference between the base line scenario and the bottom line scenario is three major projects it's million's of dollars. You've already heard how many millions of dollars. Look at the difference in the yield under those scenarios. We're talking about huge millions of dollars worth of projects. Under the most aggressive scenario which is the east square, if you combine the two TIF Districts and use the 7.66 mils you're only talking about a 3 million dollar difference on a base of twenty-seven million five hundred thousand. We're talking about the Terminella Project which is 2.5 or something like that and the Mountain Inn which is twenty-two million, to give you an idea of relative scales; this little piece that you're talking about is inconsequential.

Alderman Thiel: Okay.

Mayor Coody: Any other questions for Dr. Collins? Alright.

Kit Williams: Is that a motion?

Mayor Coody: Is that a motion to amend?

Alderman Thiel: Yeah, I'm making that motion to amend and there may be some people here that live within that district, I don't know, or in that area. But yes I'm making a motion to amend to remove that area.

Mayor Coody: Okay let me ask you this. In this part you carved out here, I'm sure it's very convenient drawn the way that it is, are these four or five people are they clustered together or are they spread throughout that district that you carved out?

Alderman Thiel: I think they are kind of spread out actually. I think some of them are to the north of that. One was very vocal at the last meeting.

Mayor Coody: Okay. Alright so you're making that motion to amend.

Alderman Thiel: Yes.

Mayor Coody: Is there a second?

Alderman Reynolds: Yes.

Alderman Thiel moved to amend the Project Plan Boundary. Alderman Reynolds seconded the motion.

Mayor Coody: We have a motion and a second to amend the master plan area to exclude the boundary previously described.

Kit Williams: This is amending the Exhibit A to that ordinance.

Mayor Coody: Is there any other further discussion on this amendment.

Alderman Rhoads: Yeah, I've got discussion. I'm desirous if this will help move the process along then I'm very much desirous to seeing that happen. However I'm trying to walk in the shoes of the twenty-five other houses that are in this other little carve out. Kit I don't want to be inventing something that may never happen but have those twenty-five other folks lost any sort of right by being carved out when at one time they were in.

Kit Williams: Actually I don't think so. One of the projects that is proposed in the amended plan and was also proposed in the downtown plan was the extension of the trail which runs very close to these houses but is on the other side of the creek. I don't think that they would actually lose anything and in fact the statute does allow work even outside the district. We're not proposing any of that but the statute does allow that under one of the provisions. No, I don't think they're losing any rights.

Alderman Rhoads: Thank you.

Mayor Coody: Alright, anyone from the public want to comment on this amendment? I'm going to close it to public comment and bring it back to the City Council. Oh there is somebody. How are you Jill?

Jill Anthes: Jill Anthes, 610 North Olive Avenue. I just wanted to comment that the part of the plan we're talking about excluding seems to be one of the most underserved parts in the district and in that area if there's money left over after the increment it might best be served by improvements. Also it is part of the Downtown Master Plan area that might be the most

available to artist and for the culture arts district initiative. I'd urge you to think about leaving it within the boundary. Thanks.

Mayor Coody: Thank you. One of the things about this, for anybody that is viewing at home that might be confused about how this TIF District works. If somebody in a particular area is in the TIF District they see no additional expenses. They will see no extra money going out of their billfold or purse. They will see no additional expenses. What they would see is a portion of what they already paid being plowed back into their neighborhood and into the district that is not currently plowed into that district.

Jill I think your comments were right. I think that it would be an area that might benefit actually from being in the TIF area. But there are folks who don't have that same perception.

Alderman Cook: Mayor.

Mayor Coody: Yes sir.

Alderman Cook: Can I comment on that. I think those neighbors their problem is they don't feel like they are going to see any benefit from that. I think Mr. Robson made his point clear saying that I'm not going to see a new sidewalk, I'm not going to see street improvements in front of me, all I'm going to see is this Mountain Inn that's going to get fixed and what's that going to do for me directly. I think that's what their problem is with it. The ones that I've talked to there besides him. I think they have a valid point in some ways but does that mean that we should scuttle this. I don't know. I would not say that necessarily but I think a lot of people feel that way though.

Mayor Coody: Well my thinking is that and I want to rebut that, is that it's no cost to them. Not an extra additional cost or a penny to them. I think that all they see is to rebuilt Mountain Inn is plenty worth it right there to see the whole downtown of Fayetteville. I don't feel like I should just focus my prospective on just my number of square of feet that I live on, we all are a community and we do have to look out for what's best for Fayetteville. Although I know the amendment is going to pass, I do feel like that we do have to look at the city as a whole and look at the opportunity to rebuild the Mountain Inn, an eye sore and a liability into something that's really attractive and worthwhile is something worthy for all of us to get behind.

Alderman Cook: I don't think there's any argument against that. I mean what they are worried about is in some way if their tax money is going to be going towards this Mountain Inn and that they're not going to see the benefit, where otherwise if it did go to other tax entities they might see that benefit at some point in the future. But they think that they're not going to see the benefit that's all.

Alderman Thiel: Whenever we discussed the original TIF area, I said that if after I talked to constituents that were concerned about the area south of Archibald Yell, after I explained the things that you just said and the things that Robert has said, I think we all agree that being in a TIF is a good thing, if they still wanted out of it then we would amend that. We didn't do that. What I'm saying tonight is that the idea is to go ahead and pass this new additional area that's not really been publicly discussed other then right now, and there's an urgency to do that I'm supportive of that, if we were to leave this area in so that we do have a chance and opportunity to

discuss it with the people that live in that area further. I would be supportive of just holding this off until we have that opportunity. I'm not saying that I disagree with what you're saying. I think you're right. I don't think that we've had the opportunity to get that point across. Let me put it that way, very bluntly.

Mayor Coody: You're exactly right.

Alderman Thiel: Because we are trying to pass this that's the only reason I'm trying to exclude this. I'm not saying that they will not benefit from it.

Mayor Coody: I understand. I understand that entirely.

Alderman Thiel: Okay.

Mayor Coody: Alright, any other questions or comments? Yes, sir.

Alderman Rhoads: One last comment. I'm really struggling with this issue because I'm very desirous of hopefully we'll be able to vote and get this whole TIF project moved forward. However, Ms. Anthes' comment is kind of weighing on me because I'm definitely in favor of having a very large culture district and having places for starving artists to be able to live and what have you. But what I think I also heard is that there's even the ability to do, let me take it one step further, I'm hoping that the Supreme Court will rule against what the Attorney General has proclaimed and therefore there'll be Phase II and Phase III in this TIF and there'll be money for something besides the Mountain Inn. I'm hopeful that will happen, if that does happen then people may see sidewalks, they may see lighting, they may see trails in all parts of this area. So that's why I don't want to really exclude anything. Hearing that there's a possibility that other things or benefits from the TIF money can go to things right outside of the district then I think I'm for it. If that's a true statement.

Kit Williams: Well the statute says, "each project plan shall include: 1) a statement listing the kind, number of locations of all proposed public works or improvements within the district, or to the extent provided outside the district." So I think we have authority.

Mayor Coody: Alright. So we have a motion and a second to amend this map to exclude the area.

Alderman Thiel: Mayor. Can I ask just one quick question. Haven't you told us all along Kit that we can amend the areas at a future date, not the areas only the plan. The project plan.

Kit Williams: No, you can amend both. It says in the statute that the boundaries of the redevelopment district maybe modified from time to time by ordinance of the local government. That doesn't even require a special notice. Now if you're doing what you're proposing tonight and modifying a project plan that requires a 15 day notice, two publications in the newspaper, even more notice then to establish it. So both of those can be amended from time to time if that's the City Council's desire.

Alderman Thiel: So this amendment could be, we could add this back later.

Alderman Rhoads: Good questions Brenda. Thank you.

Upon roll call the amendment to the Highway 71 East Square Redevelopment District No. 1 Project Plan Boundary passed 7-0. Alderman Marr was absent.

Kit Williams: It's on the first reading.

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

Mayor Coody: Alright do you want to entertain a motion to suspend the rules and go to the third and final reading?

Mayor Coody: Yes, ma'am.

Kit Williams: I would say absolutely.

Kit Williams: I think when this was first brought to the City back in May, I pointed out that this was a brand new amendment. Brand new law. Never tested before in the courts and as you see even as we're considering this there's a, I'm requesting the right to file a friendly lawsuit against the assessor. Actually to really protect her, to try to resolve some of the questions I have. So yes probably not in the boundaries. I don't have too much trouble with the boundaries. We get to the project plan and the financing certainly there are questions out there that I think only the Supreme Court can answer.

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Mayor Coody: In other words, we don't want to do anything without being certain after the court rules for us.

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

The ordinance was read by the city attorney for the third and final time.

Mayor Coody: Alright, any other questions or comments.

Alderman Cook: I'd like to comment real quick. One thing I want to say is that I hate making this decision tonight even though I know we need to but we literally just got this information so that's frustrating, but after talking to people in general about the Mountain Inn TIF since the last few weeks. It's been all across the board and there are people that are strongly against it for the reasons. There are people that are strongly in favor of it and there's some that just don't care to be honest.

Mayor Coody: That's probably a majority of them.

Alderman Cook: Some of them yeah. I've waffled back and forth because we have voted on this twice and I still waffle back and forth on it. There's no doubt we all support the downtown. I mean we've shown that with past actions and there's no doubt that we all want to get rid of the Mountain Inn. The question is, is this the right way to do it, is it perfect, no it's not perfect. I still have questions about the economic viability of this hotel to be honest. I really don't know if it will even fly or not. That's all opinion. I mean the numbers are all conjecture too. So we just have to make the best decision we can. All in all I think most people will agree that they just want to get rid of the Mountain Inn and I think what we've come up with is one way to do that. I hope that that's the right decision to make but I want to support this.

Mayor Coody: Thank you. You've expressed all of our sentiments. Alright, any other questions or comments? We're on the third and final reading. Shall the ordinance pass?

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Marr was absent.

Ordinance 4673 as Recorded in the Office of the City Clerk.

Kit Williams: Your honor, because of the fact that this is a dangerous fire trap and the time sensitive nature there is an emergency clause to vote on also.

Mayor Coody: Alright, I entertain a motion and second approving the emergency clause.

Alderman Reynolds moved to approve the emergency clause. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Marr** was absent.

Highway 71 East Square Redevelopment District #1 Project Plan Amendment: An ordinance amending the Project Plan for the Highway 71 East Square Redevelopment District Number One, finding the Plan is economically feasible and declaring an emergency.

Mayor Coody: Alright, thank you very much. Now we'll move along to, we've already done the public hearing on both phases of this. So the new business of the project plan has been spoken to. So we would now bring this to the Council for discussion.

Kit Williams: I can read the ordinance here your honor.

The ordinance was read by the city attorney for the first time.

Kit Williams: As you are aware I've been attempting to work on this amendment for this project plan and its been a little of a moving target because we weren't sure for a long time exactly if there was any kind of financing that would work. It wasn't until the developers finally agreed to be able to step forward and to purchase the amount of bonds which would not be marketable that I was able to fully complete the project plan which I presented to you at 4:30 p.m. I'm sorry I gave it to you as quickly as I could get it which is not quickly enough and I apologize for that. Let me go over very briefly what the project plan says.

First it has to remove the Phase II of the current project. There is certainly not enough money to do Phase II which was the streetscape throughout the original district. We had very, fewer millage available at this point in time unless the court tells us differently and therefore the only thing we will be able to do initially is the project as you approve before. The project Phase I which is the purchase of the Mountain Inn and the three other structures and their demolition and then their sale to the developers for \$300,000.00.

The Economic Feasibility Study was given to you also earlier tonight. You all have amended the boundaries of the district to make it financially feasible. The certification by the County Assessor was given for both the Downtown Master Plan TIF and the original plan that we have. She has not provided us a subsequent certification. That would be part of what I would do my suit is to require that certification by her about the debt service ad valorem rate and applicable ad valorem rate be determined by the court so that she would be protected and we would be protected. So that there would be no chance that the money, the tax money would go to a non-constitutional, non-statutory purpose. That is also in there so if you approve this project plan you are authorizing me to file suit on behalf of the City to get that kind of determination from the court.

The financing methods basically would have to be two types of bonds. The first one I will call the marketable bonds. They would be supported by the, pretty much everybody agreed to okay 3.16 mils. Those bonds even with this larger district won't be enough to finance this project. So that the developers have agreed to purchase or find an investor to purchase a note or bond that we're calling the subordinate bonds or notes. These would be paid only after the marketable bonds were paid. Because in order to make sure that the marketable bonds got paid. That would be what I think our bond counsel and our underwriter says we can market that much bonds. We can't market the bonds above for the 7.66 millage. So there would be two kinds of bonds. I want to call your attention to the bottom of page 4. Assuming we pass a bond ordinance for the 3.16 mils and something else for their bonds which should be followed with that recourse against

the City of Fayetteville or the TIF District. So that means if they're not paid within the 25 year life span on this district it would be, they would simply not be paid and we would not owe any money on them.

At the bottom of page 4, I have stated that the subordinate bonds or notes must be sold with revenues received by the City prior to the city sales of its marketable bonds. The reason that I have that in there is that obviously we only want to market our bonds if we know the project is going to go forward. So we have to be assured by the developers that they have in fact raised the money to purchase the subordinate bonds and then we will go forward at that point with selling the marketable bonds and this project would go forward.

There were some project costs clarifications including specifying that the \$300,000.00 that we will sell the property to the developers will be used to pay interest and principle on the marketable bonds. That should reduce our costs dramatically and make it more possible to obtain more money from the marketable bonds because we won't have to make such a large amount of capitalized interest into the entire debt.

The rest of the amendment just talks about what the total indebtedness would be. I'm using figures from Cruz & Associates who I would hope would come up and be able to explain their positions.

In the future options set forth are if in fact there are more mills available and both of the bonds can be paid. Both the marketable and subordinate bonds can be paid then we can look toward other projects for example the extension possibly of the Francisco Trail to the Skull Creek Trail, a parking deck, or some other sorts of improvements within this area or immediately next to the area if that's the choice of the City Council.

Beyond that I think that that pretty much covers what this amended project plan entails and I would try to answer any questions about it.

Mayor Coody: Any questions for our attorney on this?

Alderman Ferrell: I've got a question for Kit, not pertaining to this but its pertaining to the overall TIF development. Would you go through one more time with me, once again I'm all in favor of this. I remember the old Mountain Inn before we built this one. The eminent domain in a district like this, if anything is eminent domain it would come before the City Council?

Kit Williams: Yes. The project plan does not include us taking any property by eminent domain. The reason for that is that you can get virtually immediate possession with eminent domain. We've done that in having to expand roads or waterlines or something like that, but you don't get ownership until after the trial where the jury determines how much you should pay. Because of the time sensitive nature with this particular project we must go the purchase route so we can obtain clear title and convey clear title so that they can mortgage the property. Otherwise we would probably think about it.

Alderman Ferrell: I'm not talking about, what I'm really talking about is the TIF authority after this passed.

Kit Williams: There is TIF authority for eminent domain but if the City Council; just like in any eminent domain situation the City Council makes that decision.

Alderman Ferrell: It would be for common betterment.

Kit Williams: It would have to be to further project plan. So you would have to actually amend this particular plan in order to go forward with eminent domain.

Alderman Ferrell: Okay.

Mayor Coody: Any other questions. Yes, ma'am.

Alderman Thiel: On page 5, again stating and just for clarification, the City shall not pay more than. I'm trying to find out what the City is actually going to be paying that's not going to be reimbursed by the TIF District.

Kit Williams: Okay. When I'm saying the City, the funds come in and they are TIF funds the City is using them. The City in this particular project, just like it was before, is not actually going to be spending any of its general revenue. It will be spending TIF bond proceeds.

Alderman Thiel: Okay. Thank you.

Mayor Coody: Any other questions. Alright. I entertain a motion to suspend the rules and go the second reading.

Alderman Jordan: Aren't we going to go to public comment?

Mayor Coody: Oh, I thought we did the public hearing.

Kit Williams: Well they probably need to comment after.

Mayor Coody: Alright. Anyone want to make any public comments on the plan? It was a good try wasn't it? Going once. Going twice.

Kit Williams: Before we get to our second one let me ask maybe Mr. Wright or Mr. Wilbourn to make some comments about feasibility or legality or whatever they want to talk about.

Mr. Wright: Things have certainly changed since the last time we were before you since Beebe came out a couple of weeks ago. As you are going through all this and you've all stressed and understand that we need to move forward quickly on this. We've got some dates we've got to hit for the developers and make sure this project works.

Kit was just talking about the economic feasibility of the project. I think I told you early on we've got a history of underwriting numerous projects. I've got a history of doing hotel projects and have financed recently the Hilton Inn which was a shutdown hotel in Little Rock on 630 University with razor wire all over the place. It had been out of business and no developer is going to come in there refurbish the Hilton Inn in Little Rock until a tool became available that

made it economically feasible for them to do so. In Little Rock an empowerment zone became available that allowed that project to go forward.

We were brought in and Rich can tell probably six, seven, maybe eight years ago when the current owner of the property was looking to do a project. We looked extensively at how can we get this same hotel, how can we get this thing refurbished, built, get this out of the blighted area, and there was no way, no economic feasible way to get that project done. We had to turn her down at that time and obviously it's been sitting here since then.

The tool which has presented itself, the TIF financing option, the developers are using that to make this economically feasible. We have looked at all the numbers. We have looked Dr. Collins' projections. I too just got his updated number version this afternoon so I have not had a chance to study that because I promised the Council

Mayor Coody: I think the reason that we all just got that is because they just got it finished up today and delivered at 4:30 this afternoon. So it's not like we were withholding anything. It's just that we all saw it at the same time when they brought it up.

Mr. Wright: As I was sitting next to him just a little bit ago I actually pinned him down and asked if I couldn't ask him a couple of questions after this to make sure. Because I've been taking his numbers and structuring in my own computer stress test models to be able to see what happens if the growth patterns aren't there. If the Terminella project or all these different projects come in or if they do not come in if the Mountain Inn works, etc. So I still have some studying to do. But as I promised the Council early on we're taking a very conservative approach towards making this project work and that's the only fair thing to do for the City of Fayetteville and for the citizens.

As the Mayor mentioned a little bit ago, you've got a history of some problems. It's been quite a while since you've had some defaulted issues. It's been awhile since you've had any of those issues pop up. You certainly don't want such a visible project as this TIF, this Mountain Inn for it to be any potential for it to have any failures in the future look bad on Fayetteville. That's what we're here for, to make sure that we're covering the City of Fayetteville for now and in the future. So everything that we're looking at, all the options that we're working with the staff of the City in presenting to them and presenting to the developers we're taking the cautious approach.

There are some other options out there that we've been working on. It's not pertinent tonight. Tonight we're talking about amending the project plan, making sure that it's economically feasible. We will be coming back when we put this all together. When we actually put the financing package together. The final package, we'll come back one more time and amend the project plan to put in here as the final structure because we're all looking at a crystal ball right now. This is what we think is going to happen. We think with 3.16 mils over 25 years we can generate approximately two million dollars in net available proceeds towards the project. One of the reasons we look to expand tonight into the Downtown Master Plan area is without that expansion we were only talking about a million dollars and that makes it back toward the nonfeasible economy of this project. So expanding into the Downtown Master Plan makes this a lot more of a workable plan. The developers are step up to agreeing to potentially purchase some subordinate debt. We're going to look at. We've got issues to look through and structure there.

Gordon Wilbourn, your bond counsel, we've got a lot of documentation and a lot of issue to work with Kit to make sure this all goes through and goes through quickly.

There is a lot of going on behind the scene. I've said it before, a lot going on behind the scenes. Many meetings and a lot of discussions that we're trying to flush out before we come in front of the Council. We even met 30 minutes this evening and 30 minutes on a conference call this morning on various options. So we're making sure that the City is covered from an economic feasibility standpoint. I think what we're looking at now, the cautious approach, we know the undisputed millage is 3.16. We'd go forward with that but we'd certainly put in provisions. The whole key to this program and any other options or programs we bring in front of you in the future is whether or not you agree or disagree with Attorney General Beebe's opinion a couple of weeks ago. I've certainly heard both sides of agree and disagree. We will leave in provisions and options that if the 7.6 mils is available we'd be able to do X with that.

As you were starting to talk about the amendment of the project plan and taking out Phase II, I jumped up and ran back and talked with Gordon Wilbourn to make sure we don't want to sell ourselves short either on that. Can we add that back in, the Phase II, the streets, all the other projects in the future in case the seven mils, in case the 25 mils comes back? I wanted to make sure that we didn't take to big of a step but as he has mentioned not a problem there.

So if Beebe's opinion or the Supreme Court rules that we can use the 25 mils we're back to what we originally were talking about and a much bigger project funding all these street improvements in a much bigger quicker pace. We can move forward cautious right now with what we know is available, the 3 mils and then put provisions ready in case anything changes.

A couple of the comments that were brought up regarding what the legislature is doing, what they're talking about and since I'm involved in just about every TIF in the state and I've talked to numerous attorneys, numerous legislators as far as what they can do.

The sales tax issue that keeps coming up makes a lot of sense. I think it's going to be looked at very long and hard. The one issue that just to keep in mind, the one issue that's going to be brought up is if they do allow us to use sales tax proceeds generated within the district, the City still needs to determine is that in their best interest but secondly, in the big issue with this, it still has to go to a vote of the citizens for Fayetteville to be able to use that. It's not a tax increase probably but it's the existing tax and the pledged of the debt. So even though it's a small TIF district, a small portion, and the legislature allows it my understanding in talking with counsel as well and Gordon might can expand on that. You still have to have the whole citizen, all the group to allow you to do that. So that is, those are still some of the issues that we still have to work through with getting back to where we were before hand.

But in summary, we're making sure that these plans brought to you are a conservative feasible plan. One that in every worst case scenario we look at there is nothing we see that could potentially hinder the City of Fayetteville in the future with this project. I'm glad that the Council has adopted these ordinances and passed this tonight. This is the tool and only tool that's become available to allow this project to move forward. Your developers are smart enough to jump on that and I applaud them for that. This is something we've got to move forward expeditiously to get the thing done for them; otherwise it's going to sit there like it has for years.

Mayor Coody: Let me ask you a quick question. If the legislature does approve the sales tax funded TIF, we would be able to come back and amend this plan to disassemble what we've done to confirm to a new funding mechanism wouldn't we?

Kit Williams: Well I don't know. We'd have to study the statute that they would pass and everything else. As Mr. Wright said there would have to be a vote of the people because when a sales tax was passed it was passed for specific purposes and one of the purposes was not to fund TIF district. So that would have to be back to the vote of people if they wanted to allow that as new purpose for the sales tax.

Mr. Wright: They talked about using income taxes toward a TIF. More power to them I can't imagine how they are going to get that done.

Mayor Coody: Some states use that method. I don't understand how they calculate that.

Mr. Wright: I don't either. I've only heard that they are talking about it. I know that myself and few of the attorneys and legislators are going to be sitting down soon to look at all the options and what is feasible. What are the other states doing. I've not seen any of the particulars on the income tax but I question how that's going to happen.

Mayor Coody: Any other questions for Mr. Wright? Thank you for your comments. Do we have questions?

Alderman Lucas: Do you need more time? You said something about you needed to look over these figures for what we're doing tonight do you need more time.

Mr. Wright: For what you're doing tonight no I don't because all along we have planned that it is a moving target even before Beebe's opinion came out. It was still a moving target as far as how we were going to structure the financing. What was the best and most efficient and feasible way. We're still looking at that and we look at it on a daily basis up until the point we structure and finalize the package. So the information I've got there is not need for any delays tonight. We're going to continue to move forward. If we run into any time constraints or if there are any issues that do arise that might slow this down I certainly hope that and I know the developers have some time frames, some very astringent time frames to get this thing done. Maybe the fact that if we are in the market and selling bonds in the third week of February but we can't close until March. Maybe that will allow them to overcome some of their hurdles once some of their other issues, they see the money is in place but it's just going to take an ordinance period, referendum period. But other than that like I said there's a lot to do and there's a lot for the bond counsel and Kit have to do in a short amount of time but that's what we're faced with.

Kit Williams: Let me ask you a question. You said you're going to want to have a second amendment to the project plan after you've gone over and looked at the economic feasibility report and done the entire bond sort of financing work? So that the City Council will actually then be able to look at the project plan again as its further refined in your amendment in order to see exactly what the financing is going to be. How it's going to be set up. So that's one final assurance for them that everything is financially feasible and ready to go forward at that point in time.

Mr. Wright: I think the Council would prefer that to have the final project plan. The final financial structure.

Kit Williams: Yes I would prefer to have that.

Mr. Wright: So I think that's a prudent step to take. I think knowing that in this next 30 to 40 day period as much as what's going to have to happen, we're probably going to call another special meeting to come back and say these are our findings. This is what we're thinking we're going to do as far as the financial package, the numbers, etc to give you one last review. We've been talking all in generalities all the way up until now because it has been a moving target but when we get real close to the point that we think this is the best way to do it we'll probably come back to the Council and say here it is let's answer your questions, your concerns at that point and then move forward with your approval.

Kit Williams: I know I would certainly appreciate that. I've been working hard to try to get a plan as complete and full and detailed as possible. I know it can be refined further and be much clearer on economic viability of this when they have the financing actually set forward. So I think that's a very good move. Keep in mind we have to give two weeks notice every time we amend it. So let us know so we can get all the letters out and publish it in the paper in plenty of time. That is the one problem with amending these plans that you have to have such a big lead time, but I certainly would think that would be a good thing. I did my best on this but I don't think this is good enough for the final one. So I'm glad to see that they are going to seek to have another one. I think that we do need to try past this tonight though in order to show that this is in fact the intent of what the City Council wants to do and then let them have a final look at it in future when you come back with a final plan.

Mayor Coody: Alright, thank you. Any questions for Mr. Wright. I want to thank you for all your hard work. It's been a long hard road and we appreciate it. Everybody on the staff has really worked hard to put together this TIF district and all the others. This has been quite an exercise. Everybody is ready to put this to bed so we can put a lot of other things on the front burner that need to be there.

Mr. Wright: Sure.

Mayor Coody: This has put a lot of other things on hold. Anyone from the public have any questions or comments on Mr. Wright's comments? Hearing none.

Kit Williams: Do you want to see if Gordon Wilbourn wants to have anything to add.

Mayor Coody: Gordon. You just want to hear people talk tonight don't you?

Kit Williams: They drove all the way from Little Rock and I relied upon Gordon many times for bond advice. I found him to be very knowledgeable

Mayor Coody: Yes, Kit, yes.

Kit Williams: And conservative, sometimes even more conservative than me which is shocking.

Mr. Wilbourn: Kit and I are the fellow legal sticks in the mud on this deal. And I just wanted to assure you that we're being, as Bob said that his financial model is been the conservation and we're being legally extremely conservative. I personally respectfully disagree with Attorney General Beebe's opinion but that doesn't really matter. We can't market bonds based on the 25 mils with that out there. So that's not what we're doing. Like Bob said you're going to get another shot at this if we amend the project plan and there will be bond ordinances that will have the exact precise terms of the deal and it is just a function of the statute. It's not set up very well. Its, I don't know how you could ever have a project plan that approves the feasibility of a deal before you have the terms of the bonds in front of you. That's just necessarily the way this is going to have to work. I'd be happy to answer any questions.

Mayor Coody: Any questions for Mr. Wilbourn? Alright and thank you for all your help too. You've done a very, very good job. I ask City Council to suspend the rules to go to the second reading.

Alderman Reynolds moved to go to the second reading. The motion failed for lack of a second.

Alderman Jordan: I want to make a comment.

Mayor Coody: I'm sorry.

Alderman Jordan: I want to make a comment.

Mayor Coody: Oh okay go ahead.

Alderman Jordan: First of all I want to say I do support the Downtown District. I do. I support the TIF. I think that the Mountain Inn is blight. What I do not like is being handed studies and handed documents before I've had time to absorb them. I do not feel comfortable passing stuff that I do not fully understand and for these reasons I cannot support passing the plan tonight. Maybe we can suspend the rules and go to some different readings even the third reading. But I need some time to absorb this or otherwise I cannot support this.

Mayor Coody: I understand.

Alderman Lucas: I feel somewhat the same way. It's always been my policy that I read everything before I vote on it. I support this too and I really think it's important. Is there anyway that we could have a very little, short agenda next Tuesday can we at least have a week to look at this and do it next Tuesday. Would that put things in jeopardy?

Mayor Coody: Let me ask a question.

Alderman Jordan: Can I say one more thing?

Mayor Coody: Okay, go ahead. Bob would you step forward again please.

Mr. Wright: I was just asking Gordon. It is truly the need to adoption the amendment to the project plan crucial tonight to continue moving forward. I certainly don't want to stop the process that's already started. Since we are planning on or at least that's the thinking is come back with a final adoption of the project plan with final numbers. Is it crucial that this passes tonight versus what you've already as far as creating the expanded district? I'll defer to the attorneys as far as their thoughts.

Mr. Wilbourn: Well I think what we were looking for was the will of the Council. How to proceed? What option that Kit presented that we were going to base our deal on and that's what we need to know. It's, we can't move forward without having at least some sense of what plan we're going with.

Mayor Coody: I'm sorry go ahead.

Alderman Rhoads: I would recommend that we maybe rename what we're about to vote on or perhaps not vote on and call it a proposed plan. What I mean is we're going to come back and amend it no matter what shortly and I'm of the same concern I'd kind of like to read things first and if we call it a proposed plan we will still achieve everything that we need to get done tonight and then we can come back and amend, adopt a final plan at a later date.

Kit Williams: I don't really think there, there is nothing in the statutes that say proposed plan. You either have a project plan or not. I guess you could pass the resolution you are in agreement with the project plan even if you are not going to pass it to let them know what you are thinking about. We either pass or do not pass the project plan. I don't think that you're not aware of, I don't think we can rename it and solve this particular situation. Keep in mind also that we had a public hearing and the public hearing was on the plan. Now if you don't want to pass it tonight, if that's going to be, I'd really have to defer to the developers and also to our underwriter and bond counsel about whether or not this is going to mean that the project will be able to still be done. The reason this meeting was scheduled for tonight was we backed up from the time we had to have the money and it takes time to do the bond ordinance and have the bond ordinance in effect. The bond ordinance has to be in effect before they can issue bonds and so we backed it up and this was basically the last possible night to get that done I thought but I could be wrong. I'll leave it up to you all and the developers to tell me is this the last night we can do this or do we have more time?

Mr. Wilbourn: No. Again I'll just reiterate what I said earlier. If, the understanding of the direction is a senior bond issue, a subordinate bond issue based on the 3.16 mils and that's the direction that we need to go and we can move forward. Kit I don't know what this does to you on the other authority for the declaratory or injunctive action. That will delay you from being able to do anything there. I don't know if that's important right now.

Kit Williams: I wasn't planning on filing anything before Tuesday anyway.

Mr. Wright: The only issue in the original plan as Kit was saying is we backed up from February 28th date. Tonight was going to be an adoption of a perimeter bond ordinance to get that 30 day referendum moving and that obviously that whole thought process died when Beebe's opinion came out. We've been back to how we can get this thing done. Gordon and I

are going to talk with Kit as far as timing and if we have to hit a February 28th closing or if we have to hit a, and this part of the discussion with the developers a February 28th lock down of the financing. Even though we have a referendum period after that. Does it affect them. That's some of the issues we have to work through.

Kit Williams: Well I think that we need to have the developers up here. They're the ones that have told us that is the, that February 28th is the date that everything starts expiring.

John Nock: Well I think, we just heard a couple of things. We certainly have to have the bond ordinance before we can close on contracts on February 28th. So that certainly seems to be a requirement that no one in here can make happen. We're not prepared to have an ordinance for that any way this evening.

On the other hand I certainly understand the question proposed by Mr. Jordan and secondly by Mr. Rhoads. That if there are questions or comments that you would like to ask and comment on if I was in your shoes I would want to ask them as well. I would want to understand them as well. Also, this project has come so far with so many iterations and we've worked through some many things. The last thing that we want to do as developers is to try to create such a sense of urgency, that is very real but that there would be a perception issue that we are trying to create it in a way that it would cause you the Aldermen discomfort.

On the other hand, we can't get beyond the fact that we have some real contracts. We run the risk, and this is a risk that we all would run based upon the decision that we make together. The contracts that we have under the project plan, I'm talking about real estate contracts will be actually passed through, under the project plan and would be purchased through TIF monies. And so therefore you would be recipients of those same contracts. So we keep saying that they're our contracts but in effect of the project plan those contracts become part involved or directly involved with the city's decisions. I see two things and I'm just thinking out loud here, if you don't have an ordinance already to allow the bonds to go forward you're already going to have to wait until at least the next meeting to have that. Then there again I don't know how you get around that quite frankly. I think that's the big issue. What we were looking for was and I think Mr. Wilbourn pointed out is the will of the Council. We can't do anything at all without the second piece of the puzzle which is in fact the bond ordinance passed, if I understand correctly from the underwriter that's been selected for the project that there's going to be a final project plan. So it seems like from our perspective nothing can occur until we know that we can go to the holders of Offer & Acceptance on the real estate, which we can't go to them and say a date certain away after tonight until that bond ordinance is passed. So in some ways, even validating the project plan tonight certainly would show one thing. It would show that will of the Council. In your preliminary direction of where to go and then it would give the ability of the next meeting I presume if the documents could be drafted in that amount of time that's sometimes a quick turn around to be able to give the bond documents. Even with that we would have to get some extensions on contracts. Those aren't our numbers. We've extended them, I don't know if the sellers will extend them again. I just don't know.

Kit Williams: I would ask that you do that and it might actually make the procedure easier if we did leave on the first reading and that way we could still modify this plan that's before the City Council. The public hearing has already been held and proper notification has been made. Until we adopt this plan you don't have to go through another former procedure to amend it because

it's still before the City Council. Therefore we could read for the second time at the Tuesday meeting and it doesn't really make too much difference when we finally act on this until we have the bond ordinance ready to be read from my understanding. That's the key one that needs to be done in order to get the money.

John Nock: That's correct.

Kit Williams: So I guess indifference to the Aldermen's concerns which are quite real and my own in fact, I would not mind seeing this left on the first or second reading tonight so that our, maybe some motion from the City Council after you suspend the rules and allow it to become on the agenda, a resolution of support for the basic idea of the project plan as presented. The amended project plan as presented so that they would know in fact what the intent of the City Council was.

John Nock: Kit, that would help us in negotiating with contracts to be able to do that, look we're dealing with a timing issue not on a question as to whether its going to actually happen or not. We've gone to them before and extended contracts and we just want to make sure we have the will of the Council supporting that if we do that again.

Mayor Coody: The adoption of the boundaries and leaving it on the first reading with the intent to move forward with the final plan that wouldn't suffice as much as a document saying, stating intent?

John Nock: I think it would. I think it would. I don't know that anything beyond that would actually help us without the authorizing resolution for the bonds anyway.

Richard Alexander: Can I ask Kit a question?

Mayor Coody: Sure. Come on up.

Richard Alexander: As I understand it what were doing tonight is finding that the project plan is feasible but it's all subject to the passage of a bond ordinance. I mean if the bond ordinance that's where these guys are. You'll say yes its feasible and these guys will come back here and go okay yes it is and here's the money for it or no its not. So whatever you do tonight is subject to another hearing on the bond ordinance and at that point in time all of the questions should be answered. All of the numbers explained and the financing set out to the satisfaction of Council, bond underwriters, and city attorney. So it's a quirk in the statutes as I understand that you have to find that the plan is feasible in order to take the next steps which is go get the money. And you still have an opportunity to turn it all down if they come back and go it doesn't work, we can't raise the money.

Alderman Rhoads: Okay Richard what you're saying is that we then could still come back later and completely amend what we've passed tonight.

Richard Alexander: Or frankly you could say look it doesn't work, we won't do it. I mean you passed one before. You passed one before 8-0 and turned out we couldn't raise the money. That's why we're standing back here. It didn't cost us anything but it's a legal requirement to move the process forward. I think that you have to find that to take the next step. We are at

exactly that position with no down side to the City. We passed it 8-0. These guys were about to come to you with the bond ordinance when the Attorney General wrote the opinion. So they said hey you know all bets are off and now we're back here again. So until you pass the bond ordinance it's really just an exercise in following the correct procedure as I understand it.

Kit Williams: Therefore I don't think we really lose anything if you don't actually pass the project plan ordinance tonight. I think you can leave it on the first reading but I do think it would be appropriate for the City Council to express itself about whether or not this is the direction that you are willing to go. What has been outlined in the project plan where the City would market as much bonds as it could on the three mills and the developers would buy enough of the remaining bonds so that we would have three and a half million dollars net be open to the project. I think that they need to know if that is in fact the will of the City Council. I think our bond counsel and our underwriter needs to know that also and then leave it on the first reading. Let's refine this plan some with the information that we're going to get from our bond counsel before you make a final decision on the ordinance.

Alderman Thiel: Mayor.

Mayor Coody: Yes ma'am.

Alderman Thiel: I personally think that we have voted on the district, the area, that is our comment and intent. I don't know why we need to verbalize, what good a verbalization of intent is other than that. I think we've all supported this district, the area and the boundary. We'll just wait until we get an actual.....

Richard Alexander: Here's a question for Kit. Right now, before tonight there was already a redevelopment plan and boundary. Tonight you have expanded the boundary of the existing TIF. So you actually already have a TIF plan that has been adopted and only tonight was amending that. So actually we already have a valid plan that has not yet been amended. We have already adopted a change in the boundary so actually we already have a TIF plan.

Mayor Coody: The plan that we have adopted won't work with.....

Kit Williams: We have an adopted but not valid plan.

Richard Alexander: That's right. It has not yet been amended but we do have a TIF plan.

Alderman Thiel: But that again shows the Council's commitment.

Richard Alexander: Oh yeah but we're just trying, well the main thing, I know the first thing we're going to have to do is go over to Bank of Fayetteville and meet with their guys and say hey we're going in the right direction. Don't panic just yet we're still on track and they'll want that comfort level to know that they can go forward and that they're doing the right thing in going forward. So I don't care how we accomplish that.

Mayor Coody: Lioneld.

Alderman Jordan: I don't intend to cause anybody any undue hardship here but my job as an alderman is to properly absorb the information that I've been given and make the best decision I know how to make. These documents I don't fully understand them until I have read them. So I cannot for good conscience sake make a decision on passing this without reading the information I've been given. Now I'm not trying to cause any problems here but that's just the way I do things. I do a lot of research and I do a lot of study and every time I seem to make a hurried decision on anything I seem to make mistakes. I just need the time. If we want to do this Tuesday that's fine. I think probably Alderman Marr would probably like to be here to comment on the plan as well.

Alderman Ferrell: Is there a motion on the floor?

Mayor Coody: No there's not.

Alderman Ferrell: Well obviously we're headed that way but I mean I think it's appropriate for us to make some kind of resolution saying this is the way we're headed. I would make a motion that Kit gives me another word to submit there, that we just.....

Mayor Coody: First we'd have to suspend the rules to put this item on the agenda because it is not on the agenda tonight.

Alderman Ferrell: We actually wouldn't be voting though Lioneld.

Alderman Jordan: What I'm saying is haven't we already established that by creating the boundaries of the district.

Alderman Ferrell: I think so but I think what the fellows are talking about is moving forward with the marketability of the bonds. Trying to work them.

Mr. Wright: Just to clarify it I'm at a point now that I know what the intent of the Council is which is to get this project done. I'm comfortable with that. I also know that the Council is going to look to us and look to bond counsel to make sure that the final financing package is a secure and economic package. Whether or not it's even going to turn with senior and sub debt. I don't even know that yet until we get to the final marketing and present it to the Council, here's what it is. I know the intent is to move forward. I know the intent right now is, this is the structure. We think it's going to be senior and subordinate and we're going to move forward on that. I wasn't going to call the developers up here but the issue they've got to work through with their contracts and their February 28th date is would the adoption of the bond ordinance before February 28th allow them and allow them with whoever they have the contracts, does that get them over their hurdle? When the bond ordinance is adopted you know the money is coming in after a referendum period. It's a March closing, or do they have to have money in their hands by February 28th. That's their issue but.....

John Nock: I speak as from the developers. If I understand it correctly what Bob is saying at that point in time the developers are given assurance through BPA, a Bond Purchase Agreement. And at that point it's very much a liquid instrument that if we had to close prior to the maturity I guess is 30 days that's required then we could actually prefund that if need be. So I am not concerned about that that still meets our deadlines yes.

Kit Williams: Bob that makes a lot more sense than to leave this on this reading and have it again next Tuesday and then we need to schedule whenever you think you can get your bond ordinance done so we can have it on the City Council meeting whenever that's going to be.

Mr. Wilbourn: I think when we meet next Tuesday we could get the final bond ordinance and terms we'll have to offer the bonds. I mean that's going to be part of the process. So I think what we'll need next Tuesday also is an ordinance authorizing us to go forward doing these things and putting out a Preliminary Official Statement. A perimeters ordinance but I don't think we can do one that approves the documents in substantially the final form because there's no way of knowing that that's going to be what they look like. We'll have to have some authority to go out and offer bonds.

Kit Williams: Okay, we'll talk tomorrow about that.

Mayor Coody: Alright so the intent now. Do you have anything to add?

Alderman Thiel: Well I thought that there was concern that you hadn't studied the material given from Mr. Collins but you wanted to firm up the plan basically to make sure everything worked. Then we go on with that. I think that's what I'm concerned with is to make sure we are looking at a plan that you find is feasible and not necessarily issuing the bonds.

Mr. Wright: That's why I wasn't concerned with the adoption of the amendment of the plan tonight because the plan would come back one more time with the final financing package amending it one more time. If you can leave it open to where we don't have to have another 15 day notice if you can do that so that we can put the final numbers in. Then we don't have that issue and come back here are the numbers. Here's what we present to you. Adopt the Bond Ordinance. Adopt the Bond Purchase Agreement. Adopt the amendment to the plan and we're off and running. Hopefully it meets all their deadlines or pretty close to it.

Alderman Thiel: Right. Thank you.

John Nock: Let me just say one more time. That, I just went through it in my mind. That time frame will work. Okay.

Mayor Coody: So we're going to leave this on the first reading and we will put this on the agenda for next City Council meeting.

Kit Williams: Next Tuesday.

Mayor Coody: Next Tuesday night and we need to, we are going to make that a motion to suspend rules?

Kit Williams: I don't think that that's needed. They said they know were the City Council's going.

Mayor Coody: Mr. Shifty are you comfortable with this.

Mr. Shifty: I don't know how to answer that Mr. Mayor. I'm very concerned about the timing. The bank has made a loan and investment commitment to the new market tax credit program in a low income community. We have not made a commitment, legal commitment to this project but we feel very committed to it. This is where we want to make our investment but we have a severe time problem under the new market tax credit program that the money has to be out within twelve months. And if we think that that can't happen we're going to have to look somewhere else because we cannot have, there will not be a recapture under this program. So I have a big concern. I'm willing to take John's word that we can get this done and get it funded by the 28th and get underway but if there is going to be further delays we would probably be forced to look elsewhere. Thank you.

Mayor Coody: Alright, thank you very much. So I would just as soon go ahead and approve it tonight because you have to come back. This whole thing has to come back. I know it's not going to happen but I just think.....

Kit Williams: Since they want to amend the plan away it probably makes more sense to leave it where it is. So that because then you don't have that two week delay to approve the plan.

Mayor Coody: Right. Alright so there's going to be another delay here and that's going to work out just fine. So we have a motion, at least we're going to leave this on the first reading and you don't need any further motions or certificates of approval. Alright so are we finished with this business tonight then?

Alderman Rhoads: Let's adjourn.

Mayor Cook: There's a movement to adjourn and I agree so let's do just that. Let's adjourn the meeting. Thank you.

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

Meeting adjourned at 8:00 p.m.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody, City Council
FROM: Jeremy Pate, Director of Current Planning *JP*
DATE: May 31, 2006
SUBJECT: Mountain Ranch Rezoning Requests

Please find the following zoning comparison charts, which should reflect the existing C-1 zoning district uses and the C-2 zoning district uses, as requested. The uses that have been excluded with the Bill of Assurance offered by the applicant are indicated by those which have a ~~strike-thru~~ over the use. Additionally, the Bill of Assurance goes into detail of excluding particular uses, specifically Use Unit #17 and #19. A chart is included itemizing those uses specifically excluded within these allowed Use Unit categories, again reflective of the Bill of Assurance offered by the applicant.

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

*** These uses have been further limited, see below.*

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 24	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually-oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Q) *Unit 17. Trades and services.*

(1) *Description.* Unit 17 consists of establishments engaged primarily in providing household and automotive maintenance and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage.

(2) *Included uses.*

Retail trade establishments, general:	•Automotive sales, service and repair, including body shop * •Buses •Manufactured home sales •Motorcycle sales, including service and repair •Truck sales, including service and repair •Trailer sales, camping, hauling, travel •Used car lots •Farm supplies and equipment and repair
General merchandise establishment:	•Direct selling
Merchandise vending machine operations	
Institutional furniture and furnishings	
Marine craft, sales & service:	•Boats and accessories
Medical and orthopedic appliances	
Personal help:	•Animal hospital •Auctioneer •Bindery •Body piercing •Cabinetmaker •Frozen food locker •Drapery service •Linen supply and industrial laundry •Packing and crating •Rug cleaning •Tattoo services •Taxidermist •Tool sharpening-repair service •Armature rewinding •Auto wash •Electrical repair service •Furniture repair •Motor repair •Radio and television repair •Reupholstery •Rug repair

(S) *Unit 19. Commercial recreation, small sites.*

(1) *Description.* Unit 19 consists of commercial amusements which ordinarily do not require large sites and often seek location in or near developed commercial areas.

(2) *Included uses.*

Billiard and pool parlor.
Bowling alley
Slot car track
Skating rink
Video arcade
Indoor theater

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 6, 2006**

A meeting of the Fayetteville City Council will be held on June 6, 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**

Progress Report on Phase I of the Classification and Compensation System Project Job Description Development - Johanson Group – Agenda Session Only

OMI Annual Report on Operations - Billy Ammons, Regional Business Manager – Agenda Session Only

Commemoration of the Fayetteville Public Library's 90th birthday - Louise Schaper, Library Director.

A. CONSENT:

- 1. Approval of the April 18, 2006, May 2, 2006 and May 16, 2006 City Council meetings minutes.**
- 2. Community Development Block Grant:** A resolution approving the Community Development Block Grant (CDBG) Agreement for 2006 in the amount of \$653,244.00.
- 3. APAC-Arkansas, Inc. Change Order No. 2:** A resolution approving Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$277,505.60; and approving a Budget Adjustment in the amount of \$185,605.00 recognizing restored grant revenues.
- 4. McClelland Consulting Engineers, Inc:** A resolution approving a three-year contract with McClelland Consulting Engineers, Inc. for airport engineering services.

5. **Washington Regional Medical Center's Performance Bond:** A resolution to approve Washington Regional Medical Center's Performance Bond and Promissory Note to guarantee payment of an offsite improvement (traffic light) in the amount of \$110,000.00.
6. **Score Uniforms - Soccer Uniform Purchase:** A resolution awarding Bid #06-05 and approving the purchase of youth soccer uniforms from Score Uniforms in an amount not to exceed \$22,394.00 for the fall 2006 season and \$4,000.00 for spring 2007 season.
7. **Arkansas Department of Environmental Quality:** A resolution approving an agreement with the Arkansas Department of Environmental Quality (ADEQ) to install an air monitoring station on the Markham Water Storage Tank Site.
8. **RJN Group, Inc. Amendment No. 2:** A resolution approving contract Amendment #2 to the June 15, 2004 agreement for professional engineering services with RJN Group, Inc. in the amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington Sewer Basin; and approving a five percent (5%) contingency in the amount of \$6,200.00.
9. **Recognition of Local Redevelopment Authority (LRA):** A resolution recognizing the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center (USARC), including outreach to homeless providers and to other interested parties.
10. **AHTD Widening of Hwy 16/Hwy 71B East Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B East to Stone Bridge Road.
11. **AHTD Widening of Hwy 112 from Hwy 112 Spur North Cost-share:** A resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 112 from Highway 112 Spur North.
12. **Wheeler Lumber, LLC:** A resolution approving the award of Bid #06-37 for the construction and delivery of the Crown Trail Bridge to Wheeler Lumber, LLC in the amount of \$27,423.00.
13. **The Heights at Park West Master Street Plan Amendments:** A resolution for PPL 06-1998 amending the Master Street Plan, realigning Deane Solomon Collector Street to the east and reclassifying the existing Deane Solomon Road to a local street; realigning the planned Collector Park West Boulevard south of the current alignment as described and depicted in the attached maps.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the May 16, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **Improvement District No. 14 Clearwood Crossing Dissolution:** An ordinance to repeal Ordinance No. 4843 and dissolve the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas.
2. **East Square Redevelopment PZD Appeal (C-PZD 05-1610):** A resolution to grant the appeal of East Square Developers to add two floors of Hotel Rooms as a minor modification of C-PZD 05-1610.
3. **Crystal Springs IV Appeal:** Appeal the approval of the PPL 06-1977 Preliminary Plat Crystal Springs IV for property located north of Mt. Comfort Road, at the end of Raven Lane.
4. **Arkansas Department of Aeronautics SAAG Grants:** A resolution authorizing airport staff to apply for and accept two (2) SAAG Grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two (2) corporate hangars at the Fayetteville Municipal Airport; approving the financing plan to cover the city's match of \$700,000.00; and approving budget adjustments recognizing the grant revenues.
5. **VAC 06-2045 Bellafont II:** An ordinance approving VAC 06-2045 submitted by H2 Engineering, Inc. for property located northwest of Joyce Boulevard and Vantage Drive, vacating a portion of the utility easement located within the subject property.
6. **RZN 06-2026 Lafayette and Mission:** An ordinance rezoning that property described in rezoning petition RZN 06-2026 for 11 non-contiguous parcels, located north of Lafayette Street and east of Mission Boulevard, from RMF-24, Residential Multi-Family, 24 units per acre to RMF-6, Residential Multi-Family, 6 units per acre.
7. **BMW Investments, LLC Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in the amount of \$14,500.00 for the upsizing of approximately 860 feet of 8" water main to 12" water main; and approving a contingency in the amount of \$1,450.00.
8. **RZN 06-2028 Mountain Ranch C-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 22.68 acres, located west of I-540 and south of Betty Jo Drive, from R-A, Residential-Agricultural, C-1, Neighborhood Commercial, and RMF-24, Residential Multi-Family, 24 units per acre to C-2 Thoroughfare Commercial.
9. **RZN 06-2028 Mountain Ranch RMF-24:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 0.28 acres, located west of I-540 and south of Betty Jo Drive, from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.
10. **RZN 06-2028 Mountain Ranch RSF-4:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 1.17 acres, located west of I-540

and south of Betty Jo Drive, from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.

11. **RZN 06-2028 Mountain Ranch RMF-12:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 5.28 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial to RMF-12, Residential Multi-Family, 12 units per acre.
12. **RZN 06-2028 Mountain Ranch RSF-2:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 8.91 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RSF-2, Residential Single Family, 2 units per acre.
13. **RZN 06-2028 Mountain Ranch RMF-18:** An ordinance rezoning that property described in rezoning petition RZN 06-2028 for approximately 9.16 acres, located west of I-540 and south of Betty Jo Drive, from C-1, Neighborhood Commercial and R-A, Residential-Agricultural to RMF-18, Residential Multi-Family, 18 units per acre.
14. **RZN 06-2050 Wales:** An ordinance rezoning that property described in rezoning petition RZN 06-2050 for approximately 1.4 acres, located at 2055 North Fox Hunter Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.
15. **West Fayetteville Annexation Election:** An ordinance calling an election to determine whether approximately 2,000 acres contiguous to the western city limits should be annexed into Fayetteville.
16. **Fire Stations #3 and #5 Bond Purchase Agreement:** An ordinance authorizing the issuance and sale of not to exceed three million two hundred thousand dollars (\$3,500,000.00) of the city's General Obligation Bonds, Series 2006A, for the purpose of financing all or a portion of the cost of Fire Station facility improvements; authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

D. INFORMATIONAL:

City Holiday: Memorial Day – May 29, 2006

City Council Tour: June 5, 2006 - 4:30 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

6-Jun-06

City Council Meeting Date

Yolanda Fields

Submitted By

CRCC

Division

Operations

Department

Action Required:

Approval of 2006 Community Development Grant Agreement.

\$0.00

Cost of this request

Category/Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Grant Revenue

Project Number

\$ -

Remaining Balance

Community Development

Fund Name

Budgeted Item

☒

Budget Adjustment Attached



Department Director

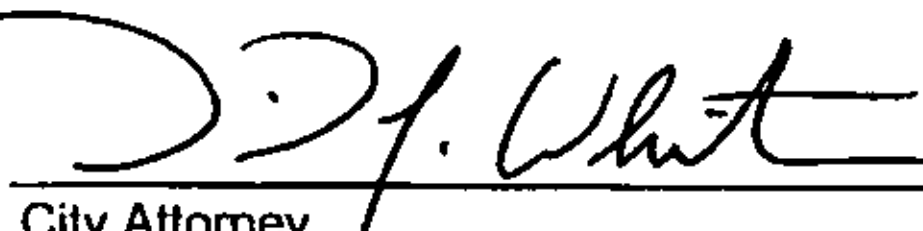
5/30/06

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

5/5/06



Finance and Internal Service Director

5-11-06

Date

Received in City Clerk's Office

ENTERED

5/3/06



Mayor

5/12/06

Date

Received in Mayor's Office

ENTERED

5/5/06

Staff recommends approval of 2006 Community Development Block Grant Agreement.

CITY COUNCIL AGENDA MEMO

To: Mayor and Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, CRGC Director 
Date: May 03, 2006
Subject: Community Development Block Grant (CDBG) 2006 Funding Agreement

RECOMMENDATION

Staff recommends approval of grant agreement.

BACKGROUND

Fayetteville has been a Community Development Block Grant (CDBG) Entitlement city since 1975. The grants are based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons and the number of housing units. Each year the Community Resources Division submits an annual "Action Plan" and funding request to the U.S. Department of Housing & Urban Development (HUD) for CDBG funding.

Grant amounts vary each year dependent on funding levels authorized by Congress through the annual federal budget process. The award for 2006 is \$653,244. Grant funding detail:

Administration	\$112,670
Rehabilitation	\$192,474
YouthCan	\$ 19,603
Elderly Taxi Program	\$ 10,000
NWA Community College	\$ 33,025
Boys and Girls Club	\$ 17,372
Code Compliance	\$ 39,524
Land Acquisition	\$ 25,678
Public Housing Authority	\$102,898
Seven Hills Center	<u>\$100,000</u>

Grant Total	\$653,244
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DISCUSSION

The 2006 Community Development Block Grant Agreement is being submitted for approval.

BUDGET IMPACT

2006 grant revenue - \$653,244.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR 2006 IN THE AMOUNT OF \$653,244.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the Community Development Block Grant (CDBG) Agreement in the amount of \$653,244.00 for 2006, with allocation as follows:

➤ Administration	\$112,670.00	➤ Boys and Girls Club	\$17,372.00
➤ Rehabilitation	\$192,474.00	➤ Code Compliance	\$39,524.00
➤ YouthCan	\$19,603.00	➤ Land Acquisition	\$25,678.00
➤ Elderly Taxi Program	\$10,000.00	➤ Public Housing Authority	\$102,898.00
➤ NWA Community College	\$33,025.00	➤ Seven Hills Center	\$100,000.00

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: DAN COODY Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

Funding Approval/Agreement

Title I of the Housing and Community
Development Act (Public Law 930383)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

HI-00515R of 20515R

1. Name of Grantee (as shown in item 5 of Standard Form 424) City of Fayetteville	3. Grantee's 9-digit Tax ID Number 71-6018462	4. Date use of funds may begin (mm/dd/yyyy) 01-01-2006
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 113 West Mountain Fayetteville, AR 72701	5a. Project/Grant No. 1 B-06-MC-05-0001	6a. Amount Approved \$653,244
	5b. Project/Grant No. 2	6b. Amount Approved
	5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) James E. Slater	Grantee Name Honorable Dan Coody
Title Director, Community Planning and Development	Title Mayor, City of Fayetteville

Signature	Date (mm/dd/yyyy) 4/20/06	Signature	Date (mm/dd/yyyy)
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7. Category of Title I Assistance for this Funding Action (check only one) ☒ a. Entitlement, Sec 106(b) ☐ b. State-Administered, Sec 106(d)(1) ☐ c. HUD-Administered Small Cities, Sec 106(d)(2)(B) ☐ d. Indian CDBG Programs, Sec 106(a)(1) ☐ e. Surplus Urban Renewal Funds, Sec 112(b) ☐ f. Special Purpose Grants, Sec 107 ☐ g. Loan Guarantee, Sec 108	8. Special Conditions (check one) ☐ None ☒ Attached	9a. Date HUD Received Submission (mm/dd/yyyy) 11/16/2005 9b. Date Grantee Notified (mm/dd/yyyy) 03/22/2006 9c. Date of Start of Program Year (mm/dd/yyyy) 01/01/2006	10. check one ☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number
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11. Amount of Community Development Block Grant	FY ()	FY ()	FY-2006
a. Funds Reserved for this Grantee			\$653,244
b. Funds now being Approved			\$653,244
c. Reservation to be Cancelled (11a minus 11b)			-0-

12a. Amount of Loan Guarantee Commitment now being Approved Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.	12b. Name and complete Address of Public Agency 12c. Name of Authorized Official for Designated Public Agency Title Signature
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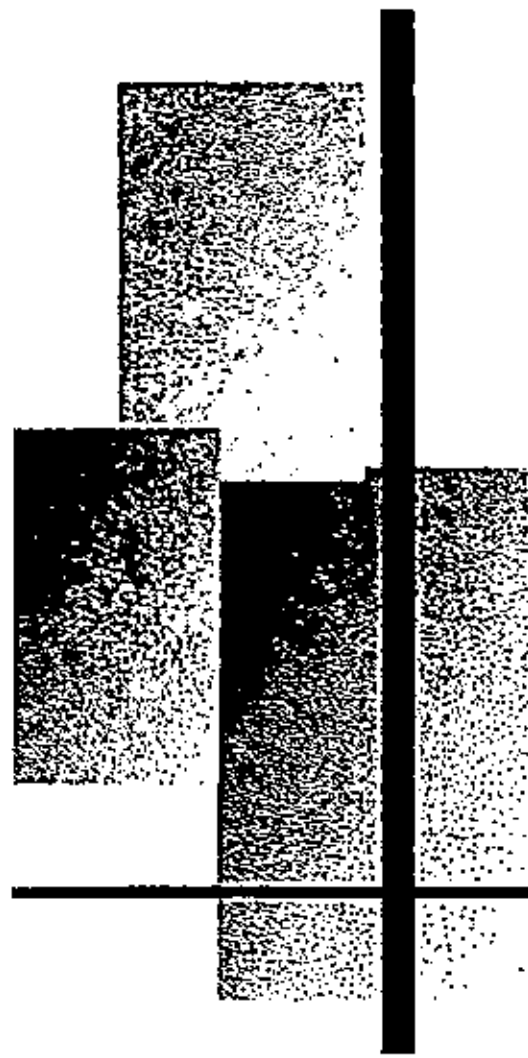
HUD Accounting use Only

Batch	TAC	Program Y	A Reg Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153								
	176								
		Y			Project Number		Amount		
		Y			Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By
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**E.O. 12372
SPECIAL CONTRACT CONDITION
WATER OR SEWER FACILITIES**

Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.



Fayetteville
ARKANSAS

COMMUNITY DEVELOPMENT BLOCK GRANT

2006 Action Plan

“Helping to Build a Better Community”

Community Resources Division
Yolanda Fields, CGEM
Grant Administrator
125 West Mountain Street
Fayetteville, AR 72701
Phone: (479) 575-8260
Fax: (479) 444-3445
Community_Resources@ci.fayetteville.ar.us

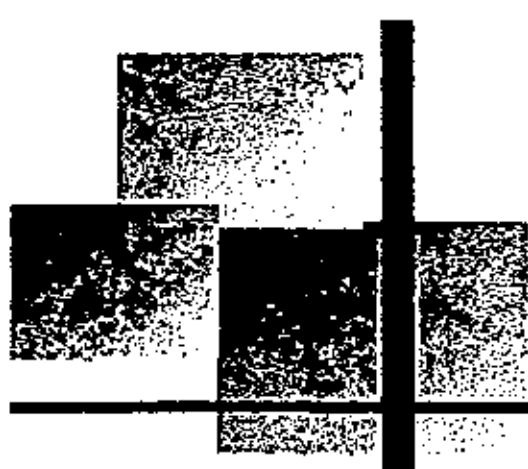
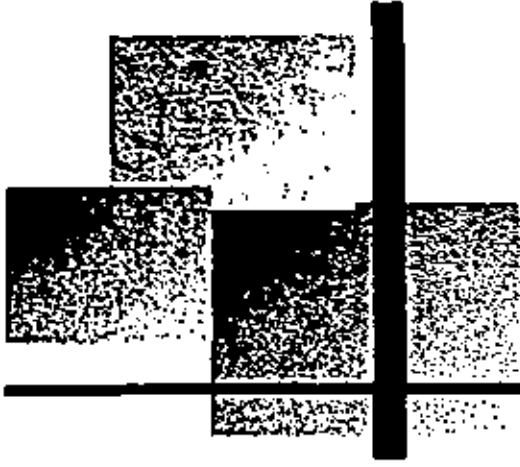


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Community Profile

The City of Fayetteville, county seat of Washington County, is located in the northwestern part of Arkansas and is regarded as the business and cultural center of the Metropolitan Statistical Area for Benton and Washington Counties, which has an estimated population of approximately 311,000. Fayetteville is situated near the tallest of the mountains in the Ozark Mountain Range and is the fourth largest city in the state. It is located approximately 185 miles northwest of Little Rock, Arkansas, 125 miles east of Tulsa, Oklahoma, 350 miles northeast of Dallas, Texas, and 210 miles south of Kansas City, Missouri. Fayetteville and the Northwest Arkansas region have gained a national reputation as one of the best places in the country to live and raise a family. The City and the region are experiencing rapid population growth and an increasing number of visitors. Fayetteville's population has increased from approximately 20,000 in 1960 to 58,047 according to the 2000 census. The City currently encompasses 48.36 square miles or 30,950 acres.

The City was settled in 1828 and was incorporated on August 23, 1870. The City operates under a Mayor-Council form of government, in which a Mayor, City Attorney, City Clerk/Treasurer, Municipal Judge, and eight Aldermen are elected. Based on the population thresholds in Arkansas law, City Council adopted an ordinance that provides for staggered aldermanic terms. Beginning with the 2000 election, all terms for elected officials are four years.



Introduction

The City of Fayetteville is a participant in the Community Development Block Grant (CDBG) Entitlement Cities Program and is awarded funds annually to carry out eligible activities in pursuit of these statutory goals:

Provide Decent housing - - which includes:

assisting homeless persons obtain affordable housing; assisting persons at risk of becoming homeless; retention of affordable housing stock; increase the availability of affordable permanent housing in standard condition to low-income and moderate-income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability; increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence; and providing affordable housing that is accessible to job opportunities.

Provide a suitable living environment - - which includes:

improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within areas through spatial deconcentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods; restoring and preserving properties of special historic, architectural, or aesthetic value; and conservation of energy resources.

Expand economic opportunities - - which includes:

job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses); the provision of public services concerned with employment; the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan; availability of mortgage financing for low-income persons at reasonable rates using non-discriminatory lending practices; access to capital and credit for development activities that promote the long-term economic and social viability of the community; and empowerment and self-sufficiency for low-income persons to reduce generational poverty in federally assisted housing and public housing.



Community Development Focus in 2006

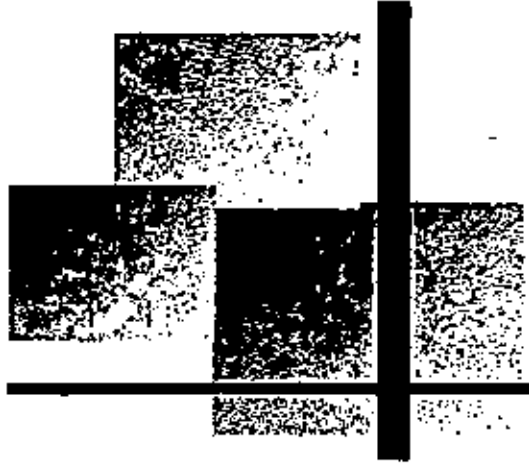
Public Access and Participation

CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff, and special purpose committees, input from community stakeholders and resource holders are integrated to designate action priorities.

Three formal public hearings were held to present and discuss proposed CDBG activities for fiscal year 2006. Non-profit agency representatives and others attended the meetings. Community Development staff has been active in the presentation of program information. Information was provided during National Community Development Week. During Homeownership month staff manned an information booth on the downtown square during the Farmer's Market one day each week of the month. Program information was also distributed at local events. During 2005 program staff manned an information booth at the Earth Day Festival on the campus of the University of Arkansas, at the Springfest on Dickson Street and at the Cinco de Mayo festival at the Fayetteville Boys and Girls Club. The development of a quarterly newsletter serves to inform the community of current and future projects. Program literature in Spanish is also available in the office. Staff continues to be very active in the Northwest Arkansas Housing Coalition and the Community Development Directors Association of Arkansas.

In accordance with Fayetteville's Citizen Participation Plan, the 2006 Consolidated Action Plan is submitted for a 30 day citizen review period. Citizen comments on the plan are encouraged and may be submitted to:

Yolanda Fields, Division Director
City of Fayetteville Community Resource Division
113 West Mountain Street
Fayetteville, AR 72701



Housing

The City of Fayetteville is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 2005, the City has focused on developing of community partnerships with local entities with expertise in specialized housing activities. This cooperation will further the Attainable Housing effort in the City of Fayetteville. Attainable housing has become a topic of great concern for this division. Housing costs in Northwest Arkansas have increased at a considerable rate throughout the past 10 years according to the latest round of information from the 2000 Census. The cost of the median mortgage payment in the City of Fayetteville remains the highest in Northwest Arkansas at \$916, an increase of 45 percent. It is the highest median mortgage payment of any city in Northwest Arkansas and 24 percent higher than the state median of \$737. The City of Fayetteville, Community Development program will work on the development of a plan to bring Attainable housing to the City of Fayetteville. This office is working with the Northwest Arkansas Housing Coalition (NAHC) and the committees of the organization to build a relationship with the local Public Housing Office. The HUD provided Technical Assistance will be a very important component in reaching the Attainable Housing goal.

Analysis of Impediments to Fair Housing

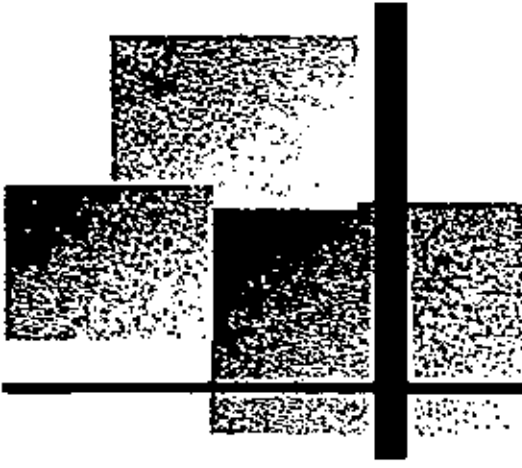
The "Analysis of Impediments to Fair Housing" (AI) has been updated. CDBG Program regulations require recipient jurisdictions to "affirmatively further fair housing," required by Section 808 of the Fair Housing Act.

The AI is conceived as an effort to affirmatively further fair housing choice by identifying all impediments to fair housing choice which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the process of developing the AI will foster the collaboration of stakeholders and resource providers in the public, non-profit, and private sectors, thereby promoting relationship-building and consensus on fair housing issues. The AI process will help describe a clearer picture of housing conditions for LMI households in Fayetteville, and aid us in defining current and future housing directions.

The current AI identified three areas of action:

- Further development of the Attainable Housing Element, that provides methods of enhancing attainable housing by providing a multi-faceted policy.
- Encouragement of continuing education/outreach in the realtor /developer community, and local newspapers and other publications on fair housing.
- Enhancement of local fair housing ordinance.

Action development in these areas will be the purview of the administration program.



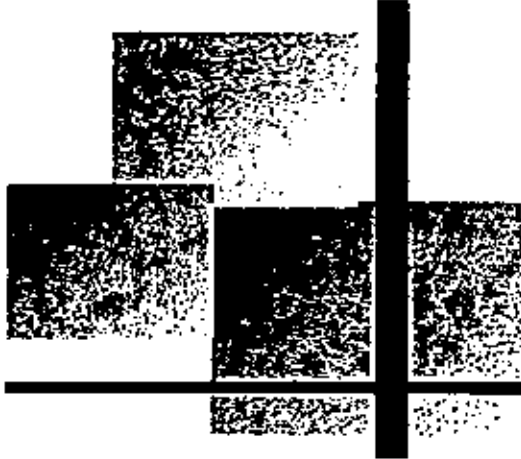
Public Services

Utilization of CDBG funds for the provision of public services, which serve LMI groups, has been, and continues to be a focus of the Community Development Program. The Taxi Voucher program provides subsidized cab fare for our city's elder citizens, allowing an inexpensive transportation choice for many who would not have transportation available otherwise. This simple, cost effective program receives unwavering support from those who use it to go shopping, to the doctor, post office, church, out to eat, or any number of other destinations. The program is hugely successful in providing our elders opportunity to participate in community life and to live independently.

An extension of the transportation program outlined above will provide LMI households under the age of sixty-two (62) subsidized mass transit. This expansion effort will provide needed assistance in dealing with transportation challenges faced by LMI individuals in the community.

Public Facilities - Community Needs

CDBG has historically supported community services facilities projects in Fayetteville. CDBG dollars have assisted construction, renovation and development of facilities for local non-profit organizations such as Seven Hills Homeless Center, Head Start, and Peace at Home Family Shelter, as well as renovations and improvements to streets, sidewalks and other infrastructure located in the designated target area.



2006 Action Plan

AVAILABLE RESOURCES

Resources—Federal / State

The City is the recipient of a formula grant program, the Community Development Block Grant. Private non-profit organizations in Fayetteville are funded through competitive state and federal allocations, the local United Way campaign, private foundation grants, other special competitive grants, and private donations including fund-raising activities. The City anticipates the CDBG formula allocation in 2006 will be approximately \$722,566.

Resources—Municipal Government

The City's Street Division has estimated \$300,000 for street overlay and repair of streets located in the designated Community Development Target Area. The City's Budget Division has budgeted approximately \$106,182 for maintenance of city-owned buildings occupied by area non-profit agencies performing public service activities.

DESCRIPTION OF ACTIVITIES

HOUSING SERVICES

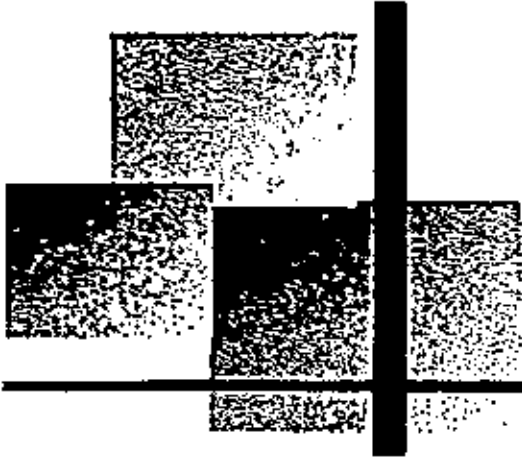
Residential Rehabilitation

This allocation provides forgivable loans to low and moderate income persons for rehabilitation of owner-occupied housing. The following services are offered:

- Minor Rehabilitation up to \$5,000
- 5 projects of Rehabilitation up to \$25,000

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with State and City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, those that alleviate deferred maintenance conditions, safety devices, and replacement of principal fixtures and components. \$192,474 is allocated and includes salary and program delivery costs for management and oversight of all housing programs.

Location: Citywide, applicants are prioritized according to established criteria to give preference on the waiting list to those most in need of services. Priority criteria include: Very Low Income, Elderly, Disabled, Single-parent household, Lead-based paint hazards in homes, and homes located in the Target Area.



PUBLIC SERVICES

YouthCAN!

This project will provide a 5 week summer program that will provide productive and creative activities to at-risk youth, four hours daily, four days per week for a total of 20 days. Constructive youth development programs such as this reduce the risk of experimenting with drugs and alcohol and getting in trouble. Youth will participate in art, mentoring, team building, leadership, & community services activities as well as attending field trips. The participants will work with professional artists, and other teens, and will experience a wide variety of art mediums. They will also be evaluated through a pre/post test assessment to demonstrate impact of programming.

CDBG funds allocated - \$19,603

Fayetteville Elderly Taxicab Program

This program provides an alternative transportation choice for elderly residents of Fayetteville through subsidized cab fare. Elderly physically challenged and other eligible low to moderate individuals will be served by this transportation program.

CDBG funds allocated - \$10,000

Location: Citywide

Fayetteville Boys and Girls Club

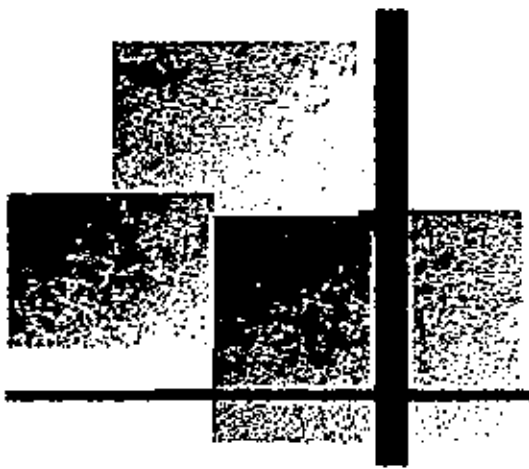
This program will assist participants with homework help, academic, prevention and health & life skills programs. Participants will receive educational and recreational programming and activities in a safe and adult caring environment to aide them in their development during early school years. Participants will also benefit from structured time to relax and participate in activities such as playing on the playground or playing in the gym, listening to music, stretching and other whole group fun activities. This project is child-focused and is aimed at developing the total person academically, socially, emotionally and physically. Approximately 120 young people will benefit from the after-school program at Jefferson Elementary. An estimated 90% of all beneficiaries reside in the target area and are low/moderate income.

CDBG funds allocated - \$17,372

Northwest Arkansas Community College

This program will identify and recruit approximately 34 low-to-moderate income residents of Fayetteville for participation in a customized computer job training program to develop new computer job skills that will expand participants' employment and economic opportunities.

CDBG funds allocated - \$33,025



ADMINISTRATION

Administration funds are used for the salary and benefits of the Community Development Director, administration staff, office supplies, travel and training costs, some Fair Housing activities and other costs associated with administration of community development activities.

CDBG funds allocated - \$112,670

Location: Community Planning & City Engineering Building
125 West Mountain Street

REDEVELOPMENT PROGRAM

Program activities conducted in the target area include code compliance, clearance and demolition and land acquisition for attainable housing.

CDBG funds allocated - \$134,524

PUBLIC FACILITIES

Seven Hills

This agency will construct a fully equipped and staffed transitional housing facility. This facility will be a transitional housing campus that will assist individuals who have found themselves unable for a variety of reasons to meet the demands of everyday life. The campus layout consists of four separate building groups:

- The first group consists of three-three bedroom units intended for use by family units of up to four individuals.
- The second series of facilities contains eight efficiency units intended to serve individuals who are disabled.
- Building three will be a central meeting room with offices for case worker(s) and an apartment for the site manager.
- The fourth building group will have 17 bedrooms with shared kitchen and bathroom facilities.

CDBG funds allocated - \$100,000.

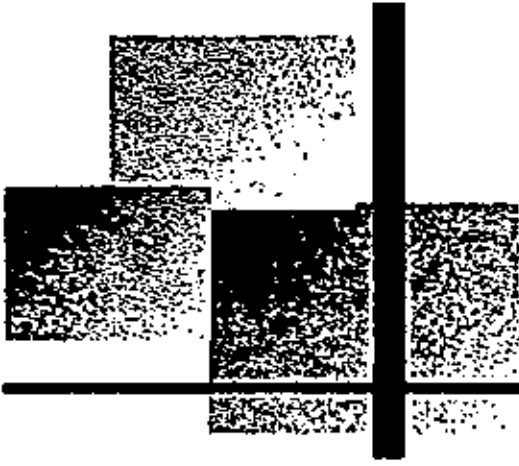
Fayetteville Public Housing Authority

The Authority will contract for the construction of an addition at the Willow Heights Apartments (located in the target area) for use by the Head Start program for therapy and instruction of handicapped and disabled children. *CDBG funds allocated - \$26,300.*

The Authority will construct recreational areas for two public housing family complexes and complete one recreational area (the Authority has installed new playground equipment at the Willow Heights Apartments).

- Playground equipment at Morgan Manor Apartments and Lewis Plaza Apartments.
- One picnic table, on outdoor grill, and 2 outdoor benches.
- Concrete sidewalks and pads (for picnic tables) that are handicapped accessible.

CDBG funds allocated - \$76,598.



MONITORING

Community Development Programs will be monitored by the Community Development Division, State HUD staff and external auditors to ensure long-term compliance with federal, state and local regulations and statutes. Goals and objectives outlined in the Consolidated Plan will be reviewed periodically by the Community Development staff to ensure compliance to the plan.

Housing Programs will be monitored by the CDBG Housing Program staff, State HUD staff and the City of Fayetteville Building Safety Division, when needed for compliance to building ordinances. All building ordinances must be met prior to final payment on all housing rehabilitation projects. Follow up visits will be made to all minor rehabilitation project sites.

Public Service Activities Sub-recipient agreements will be required for all public service activities. Monitoring area will include program performance, financial performance and regulatory compliance. Sub-recipient agreements will require documentation of activities and results. In addition, agreements will require an estimated project schedule and a project completion date. Agreement will outline procedures to be followed in the case a non-compliance situation may occur.

Redevelopment Programs will be monitored by the staff, State HUD staff and external auditors. Code compliance issues are administered according to city ordinances and policy/procedures guide. Land acquired will be utilized for attainable housing in the target area. Program efforts will serve to advance the revitalization of the target area.

LEAD-BASED PAINT HAZARDS

Rehabilitation projects are evaluated and tested for lead-based paint hazards in accordance with the City of Fayetteville lead-based paint policy. The policy has been established based on current federal regulation for lead-based paint. This policy will be reviewed on an annual basis by CDBG staff.

2006 Action Plan

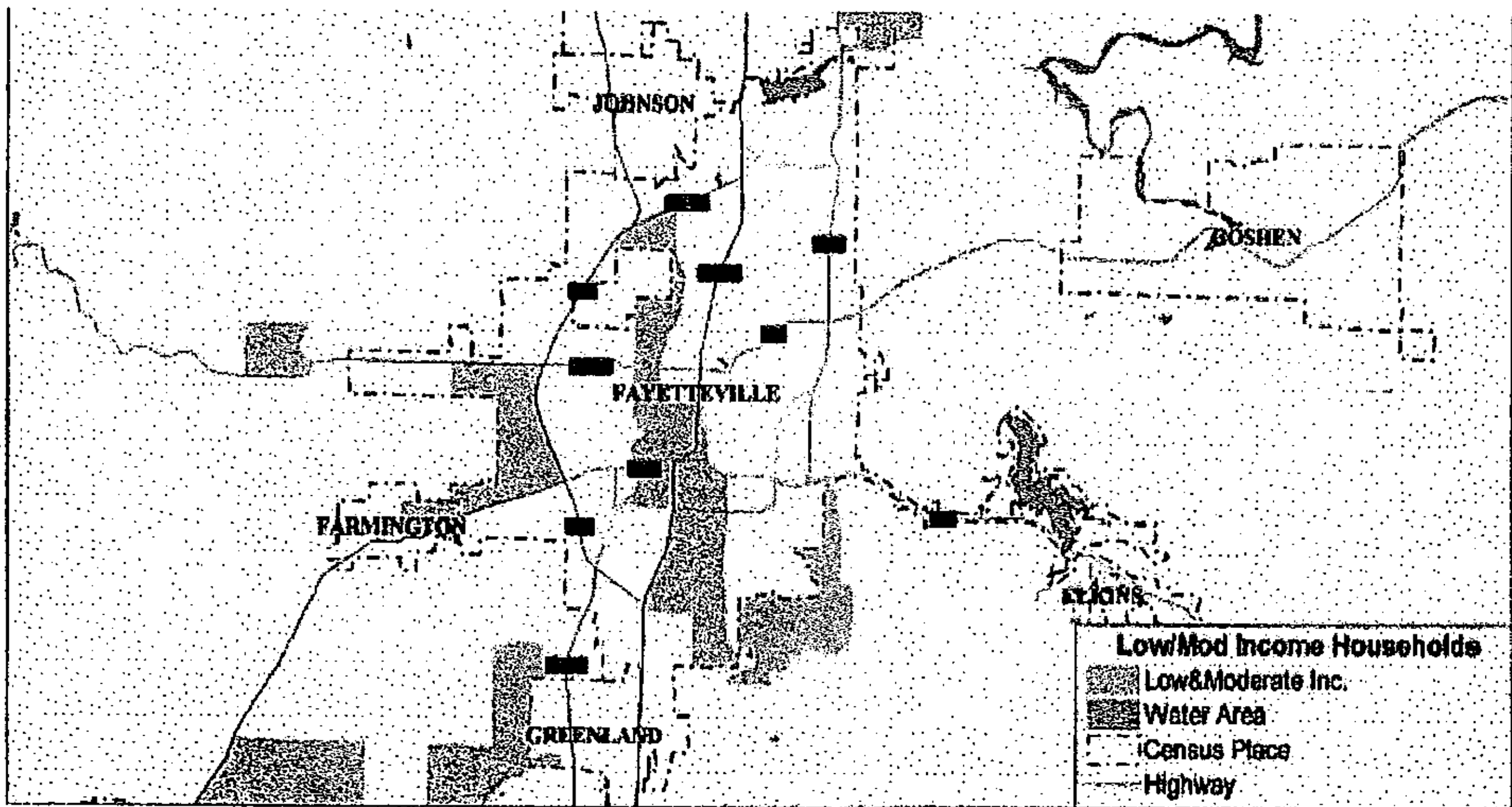
Population

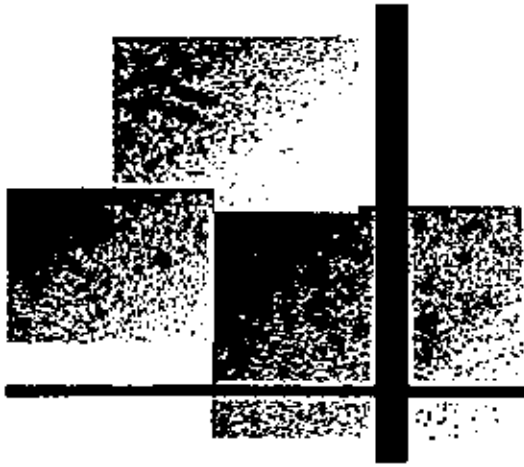




2006 Action Plan

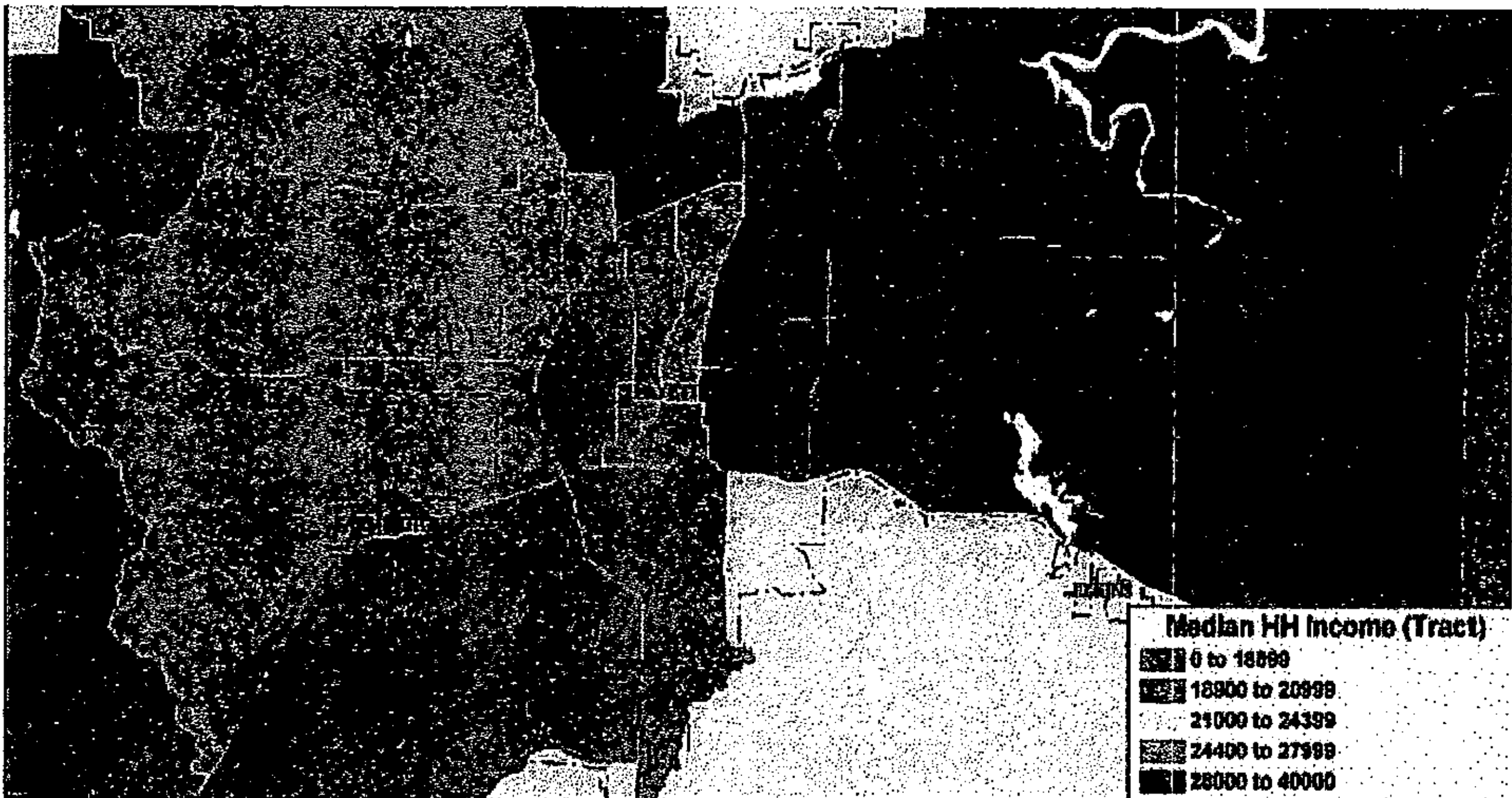
Low/Moderate Income Households





2006 Action Plan

Median Household Income

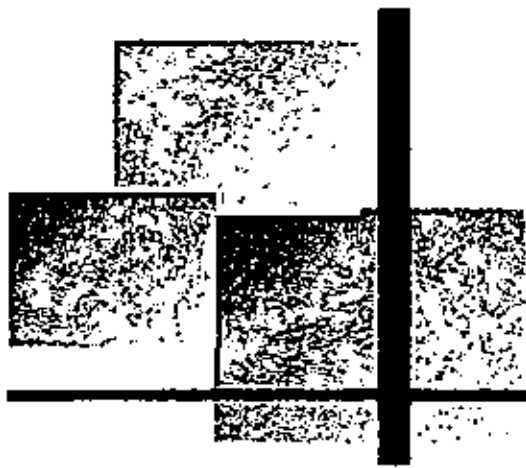




2006 Action Plan

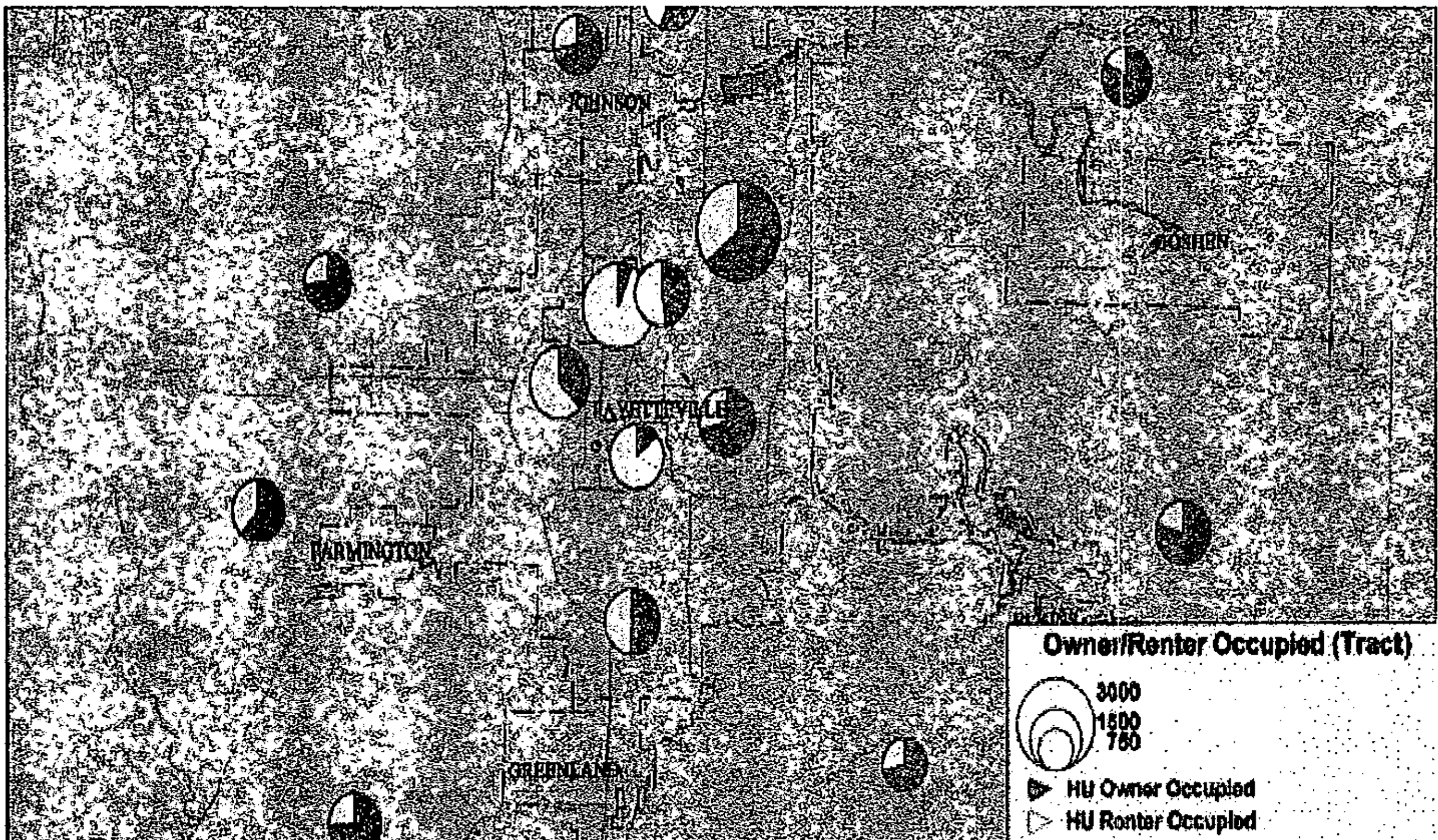
Minority Households





2006 Action Plan

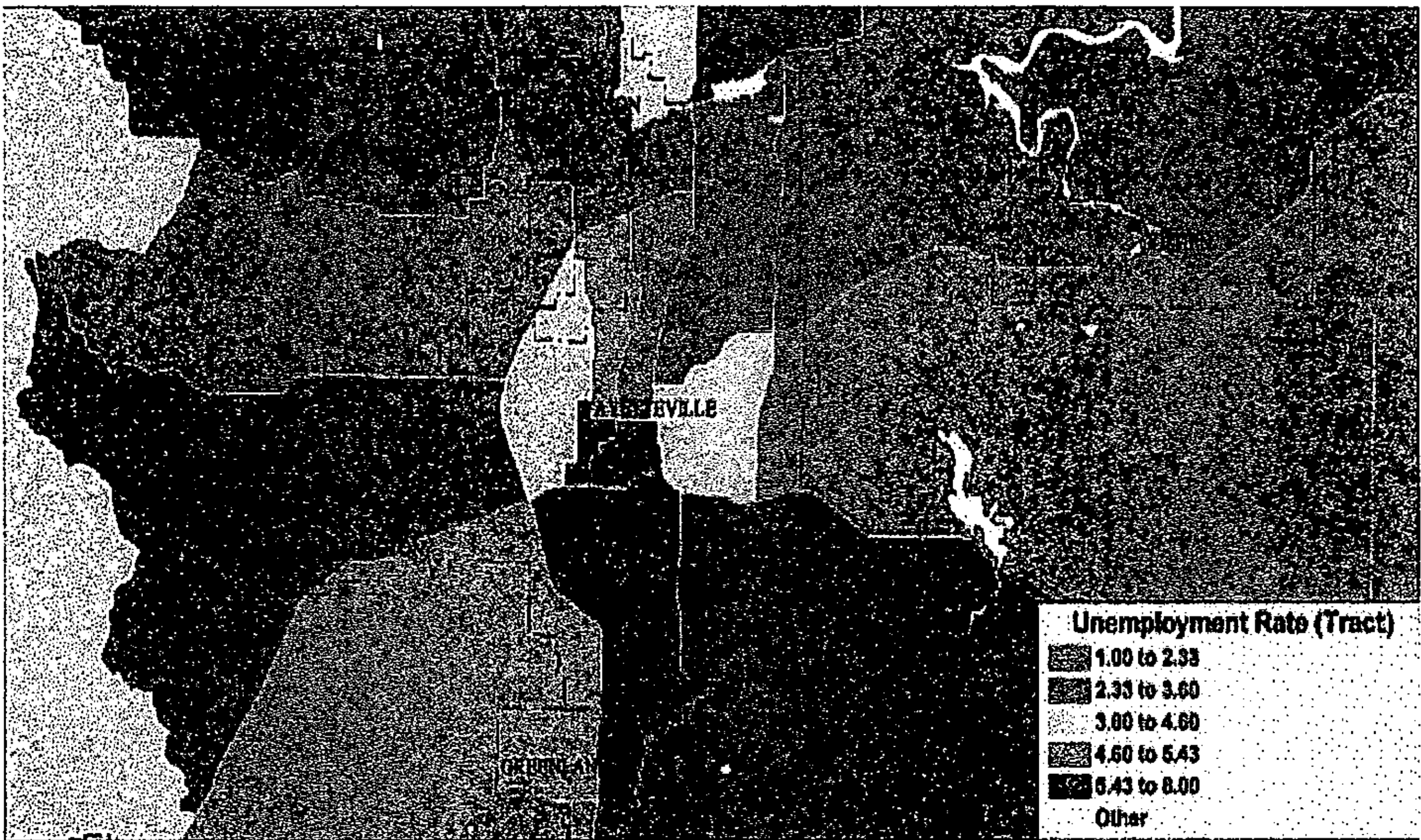
Owner/Renter Occupied





2006 Action Plan

Unemployment Rate



2006 Action Plan

Listing of Proposed Projects

U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0003	Public Services-YouthCan	050 Youth Services	CD8G \$ 18,603
	Public Services	570.201(e)	ESG \$0
		25 Youth	HOME \$0
	5 week summer program for at-risk youth		HOPWA \$0
			ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$ 18,603
			Total Prior Funding \$0
	Help the Homeless?	No	
	Help those with HIV or AIDS?	No	
	Eligibility:	570.201(e)(2) - Low / Mod Limited Clientele	
	Subrecipient:	Subrecipient Public 570.500(c)	
	Location(s):	Community Wide	

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0002	Housing	14A Rehab/ Single-Unit Residential	CDBG \$182,474
			ESG \$0
	Housing	570.202	HOME \$0
			HOPWA \$0
	Addressing current housing conditions for low to moderate income residents including permanent housing rehabilitation and minor repair	50 Households (General)	ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$182,474
			Total Prior Funding \$0
Help the Homeless?	No	Start Date: 01/01/08	
Help those with HIV or AIDS?	No	Completion Date: 12/31/06	
Eligibility	570.208(a)(2) - Low / Mod Limited Clientele		
Subrecipient	Local Government		
Location(s)	Community Wide		

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0003	Public Services-YouthCan	05D Youth Services	CDBG \$19,503
	Public Services	570.201(e)	ESG \$0
		25 Youth	HOME \$0
	5 week summer program for at-risk youth		HOPWA \$0
			ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$19,503
			Total Prior Funding \$0
Help the Homeless? No Start Date: 01/01/08 Help those with HIV or AIDS? No Completion Date: 12/31/08 Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele Subrecipient: Subrecipient Public 570.500(c) Location(s): Community Wide			

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0004	Public Service-NWVA Community College	05 Public Services (General)	CDBG \$33,025
	Public Services	570.201(e)	ESG \$0
		34 People (General)	HOME \$0
			HOPEWA \$0
	Provides computer skills for individuals to expand employment and economic opportunities		ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$33,025
			Total Prior Funding \$0

Help the Homeless? No Start Date: 01/01/06
Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
Subrecipient: Subrecipient Public 570.500(c)
Location(s): Community Wide

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0005	Public Services-Boys and Girls Club	06D Youth Services	CDBG \$17,372
	Public Services	570.201(a)	ESG \$0
		60 Youth	HOME \$0
			HOPWA \$0
			ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$17,372
			Total Prior Funding \$0
	Help the Homeless?	No	Start Date: 01/01/06
	Help those with HIV or AIDS?	No	Completion Date: 12/31/06
	Eligibility:	570.208(a)(2) - Low / Mod Limited Clientele	
	Subrecipient	Subrecipient Public: 570.503(c)	
	Location(s):	Community Wide	

U.S. Department of Housing & Urban Development

CPD Consolidated Plan

Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0008	Public Services-Fayetteville Elderly Ted Program	05A Senior Services	CDBG \$ 10,000
	Public Services	570.201(e)	ESG \$0
	Alternative transportation choices for the elderly residents of Fayetteville through subsidized cabfare program	200 Elderly	HOME \$0
			HOPWA \$0
			ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$ 10,000
			Total Prior Funding \$0
	Help the Homeless?	No	Start Date: 01/01/08
	Help those with HIV or AIDS?	No	Completion Date: 12/31/08
	Eligibility:	570.208(a)(2) - Low / Mod Limited Clientele	
	Subrecipient:	Local Government	
	Location(s):	Community Wide	

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0007	Redevelopment Program-Code Compliance assistance	15- Code Enforcement	CDRG \$39,524
			ESG \$0
	Other	570.202(c)	HOME \$0
			HOPWA \$0
	Assistance to low to moderate, owner occupied properties in the Community	25 Households (General)	ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$39,524
			Total Prior Funding \$0
Help the Homeless? No Start Date: 01/01/08 Help those with HIV or AIDS? No Completion Date: 12/31/08 Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele Subrecipient: Local Government Location(s): Community Wide			

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0008	Redevelopment Program Land acquisition	01 Acquisition of Real Property	CDBG \$ 85,000
	Housing	570.201(a)	ESG \$ 0
			HOME \$ 0
			HOPWA \$ 0
			ASSISTED HOUSING \$ 0
			PHA \$ 0
			TOTAL \$ 85,000
	Land acquisition for affordable housing	3 Housing Units	Total Prior Funding \$ 0
Help the Homeless? No Start Date: 01/01/08 Help those with HIV or AIDS? No Completion Date: 12/31/08 Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele Subrecipient: Subrecipient Public 570.500(c) Location(s): Community Wide			

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0009	Public Facilities-Fayetteville Housing Authority	03 Public Facilities and Improvements (General)	COBG \$28,300
	Public Facilities		ESG \$0
			HOME \$0
		570.201(c)	HOPWA \$0
	Building addition for use by the Head Start program for therapy and instruction of handicapped and disabled children	100 People (General)	ASSISTED HOUSING \$0
			PHA \$0
			TOTAL \$28,300
			Total Prior Funding \$0
Help the Homeless? No Start Date: 01/01/08 Help those with HIV or AIDS? No Completion Date: 12/31/08 Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele Subrecipient: Subrecipient Public 570.500(c) Location(s): Community Wide			

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0010	Public Facilities-Fayetteville Housing Authority	03 Public Facilities and Improvements (General)	CDBG \$78,598 ESG \$0
	Public Facilities	570.201(c)	HOME \$0 HOPWA \$0
	Playground structures and recreational equipment at 3 public housing family complexes	100 People (General)	ASSISTED HOUSING \$0 PHA \$0 TOTAL \$78,598
	Help the Homeless?	No	Total Prior Funding \$0
	Help those with HIV or AIDS?	No	
	Eligibility:	570.208(e)(2) - Low / Mod Limited Clients	
	Subrecipient	Subrecipient Public 570.500(c)	
	Location(s):	Community Wide	

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0011	Public Facilities-Seven Hills Center	03C: Homeless Facilities (not operating costs)	CDBG \$ 100,000 ESG \$ 0
	Public Facilities	HOME	\$ 0
		HOPWA	\$ 0
		ASSISTED HOUSING	\$ 0
	Used towards construction of a fully equipped and staffed transitional housing facility	PHA	\$ 0
		TOTAL	\$ 100,000
		Total Prior Funding	\$ 0

Help the Homeless? Yes Start Date: 01/01/06
Help those with HIV or AIDS? No Completion Date: 12/31/06

Eligibility: 570.208(c) - Urgent Need
Subrecipient: Subrecipient Public 570.500(c)
Location(s): Community Wide

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 3
APAC-Arkansas, Inc. Change Order #2
Page 1 of 16

June 6, 2006
City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Approve Change Order #2 with APAC - Arkansas Inc., McClinton Anchor Division, Contact: David Love, PO Box 1364, Fayetteville, AR, 72702, Phone: 479-587-3300

\$277,505.60	\$ 1,079,315.00	West General Aviation Apron
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.3960.5344.00	\$ 987,414.00	Airport Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
05034	\$ 91,901.00	General Fund / Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

[Signature] 5/5/06
Department Director Date

[Signature] 5/11/06
City Attorney Date

[Signature] 5/15/06
Finance and Internal Service Director Date

[Signature] 5/15/06
Mayor Date

Previous Ordinance or Resolution # 67-05, 155-05
173-05

Original Contract Date: 8/2/2005

Original Contract Number: 1007

Received in City Clerk's Office
ENTERED
5/11/06

Received in Mayor's Office
ENTERED
5/12/06
PH

Comments:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: May 5, 2006

SUBJECT: Accept Change Order #2 to the West Side General Aviation Apron construction project to recognize the additional FAA funding allocated to the project and restoring the project to very close to its original bid amount and original scope.

RECOMMENDATION: Approve and accept Change Order #2 to the West Side General Aviation Apron construction project restoring the project to its original scope and recognizing the FAA grant funding restored to the project, bringing the total project amount to \$1,164,229.75 total which is \$976.30 less than the original bid amount to complete the project as originally bid.

BACKGROUND: The original project was approved by Resolution 155-05 by the City Council at their August 2, 2005 meeting at the amount of \$1,165,206.00 plus a 5% contingency of \$58,260.00. Included in the Resolution 155-05 was a change order reducing the amount by \$486,923.00 due to failure of the FAA to receive the expected annual funding. Following several meetings with the FAA expressing concern that the amount of money left in the project would not produce any valuable results, a change to the change order was presented to the council which rescinded the original change order and reduced the original contract amount by only \$278,481.85 which the Council approved through Resolution 173-05. This change order restores the scope of the project and adds back the funding with \$277,505.60 in FAA grant proceeds.

BUDGET IMPACT: This project is fully funded 95% Federal and 5% State at \$1,164,229.75 plus a 5% contingency.

Attachments: Staff Contract Review Form
Change Order #2
Budget Adjustment
Resolution 67-05, 155-05, 173-05

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER #2 TO THE CONSTRUCTION CONTRACT WITH APAC-ARKANSAS, INC., McCLINTON-ANCHOR DIVISION IN THE AMOUNT OF \$277,505.60; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$185,605.00 RECOGNIZING RESTORED GRANT REVENUES.

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 Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchorage Division in the amount of \$277,505.60. A copy of Change Order #2, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$185,605.00 recognizing restored grant revenues.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA SMITH, City Clerk

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

A. 3
APAC-Arkansas, Inc. Change Order #2
Page 4 of 16

Budget Year 2006	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 5/5/2006	Adjustment Number
-------------------------	--	--------------------------------	-------------------

Project or Item Added/Increased: Increase West Gen Aviation Apron account	Project or Item Deleted/Reduced: None: Recognize Grant Revenue
--	---

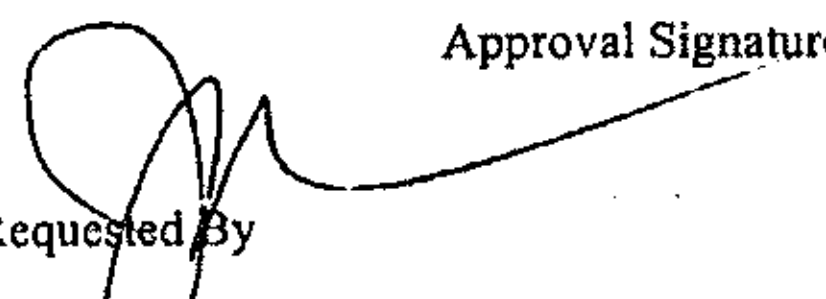
Justification of this Increase: Will provide for re-instating the original project scope	Justification of this Decrease: Grant funding now available. Project is 100% funded.
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
West Gen Aviation Apron	5550	3960	7820	34	185,605	05034	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
West Gen Aviation Apron	5550	0955	6820	34	167,044	05034	1
State grants on Fed proj	5550	0955	6803	00	18,561	05034	1

Approval Signatures		Budget Office Use Only							
Requested By		Date	5/5/06	Type:	A	B	C	D	E
Budget Manager		Date	5/5/06	Posted to General Ledger			Initial		Date
Department Director		Date		Posted to Project Accounting			Initial		Date
Finance & Internal Services Director		Date		Entered in Category Log			Initial		Date
Mayor		Date							

Type options, press Enter.

Reset: _____ +

5=Display 10=Transactions 11=Budget Transactions 14=Sub Projects
15=Funding Sources 16=LTD Balances 17=YTD Balance 18=Budget
19=Budget to Actual Inquiry 22=Additional Info More: + -

-----Project-----

Opt No.	Description	F/Y	Group	Status
16	05034 West General Aviation Apron	2006	Project	Active
-Display Life to Date Balance-----				PT0740S1-
Project Number . : 05034 West General Aviation Apron				
Expenses				
Revenues				
Original Budget : .00 Original Budget : .00				
Budget Amendments: 1,079,315.05 Budget Amendments: 1,079,316.05				
Actual Expenses : 432,656.05 Actual Revenues : 381,821.05				
Encumbrances . . : 554,757.69				
Remaining Balance: 91,901.31 Remaining Balance: 697,495.00				
F -F3=Exit . . F7=Full Exit . . F12=Cancel-----				

T Project . . : 05034 West General Aviation Apron
 Sub Project: 1 West GA Apron
 Fiscal Year: 2006
 Manager . . : 2087 Boudreaux Status . . : A Active

Original Expense Budget . . :	.00		
Original Revenue Budget . . :	.00		
Budget Amendments :	1,360,625.00		
Current Budget :		1,360,625.00	
Posted Expenses/Revenues . . :	16,471.00		
Posted Encumbrances :	554,757.69		
Balance :		789,396.31	58.02 %
Unposted Expenses/Revenues:	.00		
Unposted Encumbrances . . . :	.00		
Transaction Encumbrance . . :	.00		
Total Remaining :		789,396.31	58.02 %

-F3=Exit F7=Full Exit F12=Cancel-----

RESOLUTION NO. 67-05

A RESOLUTION TO APPROVE TASK ORDER #6 TO A CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$99,850.00 TO DESIGN AND OVERSEE THE CONSTRUCTION OF A NEW WEST SIDE GENERAL AVIATION APRON AND SEWER LINE REPLACEMENT, AND TO APPROVE APPLICATIONS FOR FUNDING FROM THE FAA AND ARKANSAS DEPARTMENT OF AERONAUTICS TO PAY FOR THIS PROJECT AND TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,079,316.00

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 Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of \$99,850.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$1,079,316.00.

PASSED and APPROVED this 5th day of April, 2005.



ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



RESOLUTION NO. 155-05

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO APAC-ARKANSAS, INC., McCLINTON-ANCHOR DIVISION IN THE AMOUNT OF \$1,165,206.00 AND APPROVING A CHANGE ORDER REDUCING THE CONTRACT AMOUNT BY \$486,923.00, TO CONSTRUCT THE WEST GENERAL AVIATION APRON; APPROVING A 5% PROJECT CONTINGENCY OF \$29,130.00; AND ACCEPTING GRANTS FROM THE FAA AND ARKANSAS DEPARTMENT OF AERONAUTICS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$1,165,206.00 and approving a Change Order reducing the contract amount by \$486,923.00, to construct the West General Aviation Apron. A copy of the contract and Change Order, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 5% project contingency of \$29,130.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby accepts grants from the FAA and Arkansas Department of Aeronautics totaling \$678,183.00.

PASSED and APPROVED this 2nd day of August, 2005.



ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



RESOLUTION NO. 173-05

A RESOLUTION RESCINDING THE CHANGE ORDER CONTAINED IN RESOLUTION No. 155-05 AND APPROVING A REVISED CHANGE ORDER TO THE CONSTRUCTION CONTRACT WITH APAC-ARKANSAS, INC., McCLINTON-ANCHOR DIVISION REDUCING THE CONTRACT AMOUNT BY \$278,481.85.

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 rescinds the Change Order contained in Resolution No. 155-05, and approves a revised Change Order to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division reducing the contract amount by \$278,481.85. A copy of the revised Change Order, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 6th day of September, 2005.



ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor





U.S. Department
of Transportation
**Federal Aviation
Administration**

Federal Aviation Administration
Southwest Region, Airports Division
Arkansas/Oklahoma Airports Development Office

Fort Worth, Texas 76193-0630

February 15, 2006

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

Dear Mayor Coody:

Subject: Multi-Year Letter Amendment, Amendment No. 1,
Airport Improvement Program (AIP) Project No. 3-05-0020-034-2005
Fayetteville Municipal Airport (Drake Field, Fayetteville, Arkansas)

[Handwritten signature]
RECEIVED
FEB 22 2006
AIRPORT

This letter transmits the maximum obligation of the United States payable under the above referenced Multi-Year Grant Agreement for fiscal year 2006 as set forth in Grant Agreement Condition No. 3 accepted by the city of Fayetteville on August 22, 2005.

This letter effects the amendment and commits the Federal Aviation Administration, acting for and on behalf of the United States of America, to increase the maximum obligation of the United States by \$150,000 (from \$778,030 to \$928,030), as authorized by Section 47108(a) of the Act, as amended, to cover the Federal share of the total actual eligible and allowable project costs of the above referenced Grant Agreement.

Under the terms of the Grant Agreement, this document is incorporated into and constitutes Amendment No. 1 to the above referenced Grant Agreement. All other terms and conditions of the Grant Agreement remain in full force and effect.

If you have any questions, please contact Mr. Donald C. Harris at (817) 222-5634.

Sincerely,

Original Signed By:
Edward N. Agnew

Edward N. Agnew
Manager, Arkansas/Oklahoma
Airports Development Office

cc:

Mr. John Knight, Director, Arkansas Department of Aeronautics,
One Airport Drive, 3rd Floor, Little Rock, AR 72202

Mr. Ray Boudreaux, Director, Aviation and Economic Development,
4500 School Road, Suite F, Fayetteville, AR 72701

From: Ray Boudreaux
To: Nicholson, James
Date: 3/2/06 3:05PM
Subject: Fwd: FY 2006 grant needs

Hi James,

Here it is.

Cheers, Ray

Ray M. Boudreaux, Col. USAF (ret)
Director, Aviation & Economic Development
4500 S. School Ave., Suite F
Fayetteville, AR 72701
ph. 479.718.7642
fax. 479.718.7646
email: rboudreaux@ci.fayetteville.ar.us

>>> <Don.Harris@faa.gov> 03/02/06 11:45 AM >>>

Good morning, Gentlemen:

By now you should have received Grant Amendment No. 1(\$150,000) for last year's multi-year grant for the west side apron. That grant total was \$928,030. I am preparing the second phase grant for the west apron expansion project and need some paperwork. This will be a separate FY 2006/2007 multi-year grant so you will need to prepare a new grant application for the balance of the project costs. The grant number will be 3-05-0020-035-2006.

The amount available for this second and final phase (including FY 2007 NPE) is \$278,456. I know we're still coming up a wee bit short, but that's all there is in the kitty. Since the project was already bid last year with a final (reduced) cost of 928,030 federal share we won't need to bid again for the balance. But I do need the following:

1. A grant application showing the federal share of \$278,456 (think of this as "Phase 2 Completion"). Again, this will be a multi-year grant with '06 and '07 funding in it. I cannot use the other application because it is limited by the amount in the -034 grant.
 - 034-2005 grant was funded from discretionary, '02 & '05 non-primary, (and advanced '06 non-primary in Amendment 1)
 - 035-2006 this year's grant is funded from '06 state apportionment of \$128,456 & \$150,000 '07 advanced funds;
 - total = \$278,456 fed share
2. Updated copy of your signed engineering agreement covering this period.
3. Updated DBE goals and approval letter from Rosetta Robinson.
4. Project schedule indicating completion date.
5. Consultant Selection Certification and Drug Free Certification.

Now, regarding the Part 139 inspection and airfield markings rehab. I understand that Wayne has something already to go on this. Please send or

email me the cost details so that I can enter it into our system. Currently I have no funding available for this project. However, as the year progresses some "fallout" may occur, and I want to be ready to grab it if it does. Our best opportunity to get this is to have the project designed and ready to advertise and bid. No promises beyond that. I just want to ensure that we are ready to pounce on it if some money becomes available. It should complete well because it is a Part 139 requirement.

Call me with any questions.

Thanks,

dh

Donald C. Harris
Sr. Program Manager
AROK ADO, ASW-631
2601 Meacham Blvd.
Fort Worth, TX 76137-4298

Phone: 817. 222. 5634
FAX: 817. 222. 5987
Email: don.harris@faa.gov



P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

May 3, 2006

Mr. Ray Boudreaux
Airport Department
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: West Side GA Apron Improvements
Fayetteville Municipal Airport, Drake Field
AIP 3-05-0020-034-2005

Dear Mr. Boudreaux:

Enclosed please find four (4) copies of Change Order No. 2 for this project for addition of the Phase II apron construction. The revised unit prices are the same as bid except for four items and they only have a slight increase due to the price adjustments over the past eight months. Items 7 & 8 have been reduced in quantity and thus the new contract amount is just under the original bid amount.

If there are any questions regarding this change order, please contact us.

Sincerely,
McCLELLAND CONSULTING ENGINEERS, INC.



R. Wayne Jones, P.E.
Vice President

Enclosure: Change Order No. 2 (4 copies)

RECEIVED
MAY 03 2006
MAY CAN GO
THRU CONTACT
Rene and
KOT
Cunningham
Some original

CHANGE ORDER

AIRPORT

Order No. 2

Date: May 2, 2005

Agreement Date: August 2, 2005

NAME OF PROJECT: West Side GA Apron Improvements

OWNER: City of Fayetteville (Airport Department)

CONTRACTOR: APAC-Arkansas Inc., McClinton Anchor Division

The following changes are hereby made to the CONTRACT DOCUMENTS:

1. Adjust the scope of the project to add the West 165 feet of the Apron and adjust the quantities and several unit prices for the project as detailed on the attached page 2 of this Change Order.. Add cost of \$ 291,999.35 to the contract.
2. Reduce the Quantity for Bid Item No. I-7 for Undercut and Backfill from 1500 CY to 900 CY at \$21.00 per CY. Deduct cost of \$12,600.00 from contract.
3. Reduce the Quantity for Bid Item No. I-87 for Stabilization Fabric from 7500 SY to 3000 SY at \$1.60 per SY. Deduct cost of \$ 7,200.00 from contract.
4. Add Bid Item No I-50 for removal of unknown septic tank for 1 LS at \$1,225.00 per LS. Add cost of \$1,845.00 to contract.
5. Add Bid Item No I-51 for relocation of sewer service line to new sanitary sewer line at 1 LS at \$1,620.00 per LS. Add cost of \$1,620.00 to contract.
6. Add Bid Item No I-52 for the repair of water and gas service lines to the Terminal Building at 1 LS at \$ 1,841.25 0per LS. Add cost of \$1,841.25 to contract.

Justification:

1. The project funding by the FAA has been increased for the funding cycle, thereby allowing the complete apron project to be constructed in one phase. This Change Order adds the work in Phase II of the project which was deleted by Change Order No. 1.
- 2.&3 These items are not required in the amount originally estimated.
4. This item is needed for removal of an existing Septic Tank that was not known to exist. This tank was not removed when the pump station was installed in the late 1970's.
5. This item is needed for the relocation of the 4" sewer service line from the FAA leased building to the old pump station to connect to the new sanitary line.
6. This item is needed for the repair of the water and gas service lines to the Terminal Building which were in a different location than indicated by the "Record Drawings."

CONTRACT PRICE prior to this Change Order: \$ 886,724.15

Increase in Contract Price: \$ 277,505.60

Revised CONTRACT PRICE Including this Change Order: \$ 1,164,229.75

Final Completion Time Prior to This Change Order: 150 Calendar Days

Net Time Change Resulting From This Change Order: 90 Calendar Days

Change to CONTRACT TIME:

The CONTRACT TIME will be (increased) (~~decreased~~) by 90 calendar days.

Approvals Required:

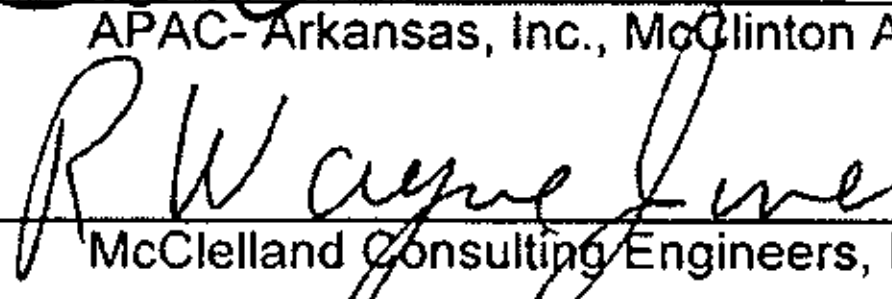
To be effective this Order must be approved by the Owner if it changes the scope or objective or the PROJECT, or as may otherwise be required by the GENERAL CONDITIONS.

Requested by:


APAC-Arkansas, Inc., McClinton Anchor Division

5/9/06
Date

Recommended by:


McClelland Consulting Engineers, Inc.

5-5-06
Date

Approved by:

City of Fayetteville

Date

CHANGE ORDER NO. 2 PRICING
Revised Phase I, West side GA Apron Improvements
Fayetteville Municipal Airport
AIP Project 3-05-0020-034-2005
April 12, 2006
MCE Project No. FY052127

Item #	Description	CO No. 1	Unit	CO No. 1	CO No. 1	CO No. 1	CO No. 2	CO No. 2	CO No. 2
		REVISED Bid Qty.		Revised Bid Unit Price	Revised Extended	REVISED Bid Qty.	Revised Bid Unit Price	Revised Extended	Revised Extended
1	Mobilization & Demobilization	1	LS	\$56,000.00	\$56,000.00	1	\$56,000.00	\$56,000.00	\$56,000.00
2	Topsoil Removal (Plan Quantity)	380	CY	\$7.00	\$2,660.00	530	\$7.00	\$3,710.00	\$3,710.00
3	Unclassified Excavation (Plan Quantity)	8,200	CY	\$11.20	\$91,840.00	11,600	\$11.20	\$129,920.00	\$129,920.00
4	Embankment from Excavation (Plan Quantity)	775	CY	\$6.25	\$4,843.75	1,050	\$6.25	\$6,562.50	\$6,562.50
5	Select Borrow Embankment (Plan Quantity)	4,690	CY	\$16.85	\$79,026.50	6,940	\$16.85	\$116,939.00	\$116,939.00
6	Topsoil Replacement (Plan Quantity)	1,440	CY	\$28.00	\$40,320.00	2,040	\$28.00	\$57,120.00	\$57,120.00
7	Undercut and Embankment Backfill	1,000	CY	\$21.00	\$21,000.00	1,500	\$21.00	\$31,500.00	\$31,500.00
8	Soil Stabilization Fabric	4,500	SY	\$1.60	\$7,200.00	7,500	\$1.60	\$12,000.00	\$12,000.00
9	Straw Bale Barrier	105	LF	\$2.10	\$220.50	150	\$2.10	\$315.00	\$315.00
10	Filter Fabric Barrier	600	LF	\$4.38	\$2,628.00	800	\$4.38	\$3,504.00	\$3,504.00
11	Crushed Aggregate Base Course	2,856	TN	\$19.00	\$54,264.00	4,250	\$18.75	\$79,687.50	\$79,687.50
12	7-Inch Portland Cement Concrete Pavement	6,132	SY	\$40.95	\$251,105.40	9,215	\$38.00	\$350,170.00	\$350,170.00
13	Apron Joint Sealant	1	LS	\$14,070.00	\$14,070.00	1	\$21,000.00	\$21,000.00	\$21,000.00
14	4-Inch Asphalt Binder, Type II	40	TN	\$78.00	\$3,120.00	40	\$78.00	\$3,120.00	\$3,120.00
15	2-Inch Asphalt Surface, Type II	20	TN	\$119.00	\$2,380.00	20	\$119.00	\$2,380.00	\$2,380.00
16	Concrete Curb and Gutter	126	LF	\$30.00	\$3,780.00	126	\$30.00	\$3,780.00	\$3,780.00
17	Handicap Ramps, AHTD Type 3	2	EA	\$960.00	\$1,920.00	2	\$960.00	\$1,920.00	\$1,920.00
18	18-Inch RCP, Class III, Wall B	390	LF	\$64.00	\$24,960.00	560	\$64.00	\$35,840.00	\$35,840.00
19	8-Inch PVC Sch 80 Pipe	0	LF	\$0.00	\$0.00	182	\$42.00	\$7,644.00	\$7,644.00
20	Grate Inlet	2	EA	\$6,000.00	\$12,000.00	4	\$6,000.00	\$24,000.00	\$24,000.00
21	Junction Box	2	EA	\$4,200.00	\$8,400.00	2	\$4,200.00	\$8,400.00	\$8,400.00
22	Curb Inlet over Existing Pipe	0	LF	\$0.00	\$0.00	1	\$4,150.00	\$4,150.00	\$4,150.00
23	Reconstruct Inlet Top to Grate Inlet	1	EA	\$4,000.00	\$4,000.00	1	\$4,000.00	\$4,000.00	\$4,000.00
24	Pipe Underdrain System	150	LF	\$10.00	\$1,500.00	200	\$10.00	\$2,000.00	\$2,000.00
25	Solid Sodding	10	SY	\$10.30	\$103.00	20	\$10.30	\$206.00	\$206.00
26	Seeding, Fertilizing, and Mulching	1.8	AC	\$2,000.00	\$3,600.00	2.6	\$2,000.00	\$5,200.00	\$5,200.00
27	Taxiway Striping (Yellow)	550	LF	\$3.45	\$1,897.50	700	\$3.45	\$2,415.00	\$2,415.00
28	Taxiway Striping (Black Outline)	1,100	LF	\$3.45	\$3,795.00	1,400	\$3.45	\$4,830.00	\$4,830.00
29	Trench and Excavation Safety System	1	LS	\$6,100.00	\$6,100.00	1	\$6,100.00	\$6,100.00	\$6,100.00
30	Remove Existing Chain Link Fence	710	LF	\$2.85	\$2,023.50	710	\$2.85	\$2,023.50	\$2,023.50
31	New 6' Chain Link Fence with Barbed Wire	655	LF	\$19.00	\$12,445.00	780	\$19.00	\$14,820.00	\$14,820.00
32	Relocate Sliding Gate and Controls	0	LS	\$0.00	\$0.00	1	\$3,200.00	\$3,200.00	\$3,200.00
33	Remove Curb and Gutter	1	LS	\$3,500.00	\$3,500.00	1	\$3,500.00	\$3,500.00	\$3,500.00
34	Remove Asphalt Pavement (3020 SY)	1	LS	\$9,000.00	\$9,000.00	1	\$9,000.00	\$9,000.00	\$9,000.00
35	Remove Gravel Surface (4468 SY)	1	LS	\$19,460.00	\$19,460.00	1	\$24,000.00	\$24,000.00	\$24,000.00
36	Remove Concrete Swale (72 SY)	1	LS	\$750.00	\$750.00	1	\$750.00	\$750.00	\$750.00
37	Remove Concrete Block Building and Foundation	1	LS	\$2,740.00	\$2,740.00	1	\$2,740.00	\$2,740.00	\$2,740.00
38	Remove Duplex Pump Station, Backfill, and Cap Force Main	1	LS	\$6,700.00	\$6,700.00	1	\$6,700.00	\$6,700.00	\$6,700.00
39	Relocate SCADA System Antenna to Pump Sta. South of Terminal Building	1	LS	\$260.00	\$260.00	1	\$260.00	\$260.00	\$260.00
40	Remove Concrete Inlet	0	LS	\$0.00	\$0.00	1	\$205.00	\$205.00	\$205.00
41	Remove 12", 15", and 18" RCP (LF)	1	LS	\$2,300.00	\$2,300.00	1	\$2,300.00	\$2,300.00	\$2,300.00
42	Remove Sanitary Sewer Manholes	2	EA	\$250.00	\$500.00	2	\$250.00	\$500.00	\$500.00
43	New Sanitary Manhole	6	EA	\$2,700.00	\$16,200.00	6	\$2,700.00	\$16,200.00	\$16,200.00
44	8" SDR 26 PVC Sewer Pipe	1,140	LF	\$50.00	\$57,000.00	1,140	\$50.00	\$57,000.00	\$57,000.00
45	Crushed Stone Trench Backfill	908	TN	\$19.00	\$17,252.00	908	\$19.00	\$17,252.00	\$17,252.00
46	Conc. Curb Removal and Repair	40	LF	\$23.00	\$920.00	40	\$23.00	\$920.00	\$920.00
47	Asphalt Drive Repair	545	SY	\$52.00	\$28,340.00	545	\$52.00	\$28,340.00	\$28,340.00
48	Asphalt Parking Repair	100	SY	\$44.00	\$4,400.00	100	\$44.00	\$4,400.00	\$4,400.00
49	Third Party Insurance Coverage (Rider Amount)	1	LS	\$200.00	\$200.00	1	\$200.00	\$200.00	\$200.00
		Current Project Cost			\$886,724.15	Change Order 2 Price			\$1,178,723.50

Increased Project Cost **\$291,999.35**

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

June 6, 2006
19-May

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Approve a Contract for Engineering Consultant services with McClelland Consulting Engineers, Inc., PO Box 1229, Fayetteville, AR, 72702-1229, Wayne Jones P.E., Vice President, 479-443-2377 office, 479-443-9241 fax, wjones@mcclelland-engrs.com.

\$0.00

Cost of this request

5550.3940.5314.00

Account Number

NA

Project Number

\$ 76,235.00

Category/Project Budget

\$ 32,400.00

Funds Used to Date

\$ 43,835.00

Remaining Balance

Serv / Chrgs

Program Category / Project Name

Airport Capital Exp

Program / Project Category Name

General Fund / Airport

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature]
Department Director

5/10/06
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

5/11/06

Original Contract Number:

[Signature]
Finance and Internal Service Director

5-15-06
Date

Received in City Clerk's Office

ENTERED

5/11/06

[Signature]
Mayor

5/15/06
Date

Received in Mayor's Office

ENTERED

5/12/06

Comments:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: May 9, 2006

SUBJECT: Approve three year contract for Airport Engineering Services with McClelland Consulting Engineers.

RECOMMENDATION: Approve and accept three year contract for Airport Engineering Services with McClelland Consulting Engineers. Signature of the Mayor.

BACKGROUND: The FAA requires that airports have an assigned engineering consultant that has been selected through the City selection process and that has experience in design, planning, bidding, construction management and thorough knowledge of the Federal Aviation Regulations that pertain to design criteria and grant programs administered by the FAA. McClelland Consulting Engineers of Fayetteville has been the consulting engineering company for Fayetteville Municipal Airport for more than 20 years with only one period of three years where another company was the consultant. Engineers with McClelland, mostly Mr. Wayne Jones, have designed most of the improvements made to the airport since it was originally constructed. Their abundance of knowledge, vast experience, and willingness to respond to the airport makes MCE the best choice. A City committee formed through the Purchasing Department selected MCE to continue the service with the airport. The Airport Board will consider the selection at their meeting May 10, 2006.

BUDGET IMPACT: This item has no money attached. Projects are assigned to the engineer through Task Orders.

Attachments: Staff Contract Review Form
Engineering Contract

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION APPROVING A THREE-YEAR CONTRACT WITH
McCLELLAND CONSULTING ENGINEERS, INC. FOR AIRPORT
ENGINEERING 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
approves a three-year contract with McClelland Consulting Engineers, Inc. for airport
engineering services. A copy of the contract, marked Exhibit "A" is attached hereto, and
made a part hereof.

PASSED and APPROVED this 6th day of June 2006.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE AGREEMENT FOR ENGINEERING SERVICES

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Agreement entered into and executed this 6th day of June, 2006, by and between the City of Fayetteville acting by and through its Mayor hereinafter called the CITY OF FAYETTEVILLE and McClelland Consulting Engineers, Inc. with offices in Fayetteville, Arkansas, hereinafter called MCE, is intended to endure for a minimum period of one year from the time of its formal execution, extendable by contract amendment to not more than three years.

WITNESSETH:

Whereas, the CITY OF FAYETTEVILLE is planning to effect improvements to Drake Field, Fayetteville's municipal airport; and Whereas the CITY OF FAYETTEVILLE'S forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and Whereas MCE'S staff is adequate and well qualified and it has been determined that its current work load will permit completion of the plans for the various projects on schedule;

Now therefore, it is considered to be in the best public interest for the CITY OF FAYETTEVILLE to obtain assistance of MCE'S organization in connection with said engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

SECTION I - EMPLOYMENT OF ENGINEER

The CITY OF FAYETTEVILLE agrees to employ MCE to perform, and MCE agrees to perform, professional engineering services in connection with the projects set forth in the Sections to follow; and the CITY OF FAYETTEVILLE agrees to pay and MCE agrees to accept, as specified in the Sections to follow as full and final compensation for work accomplished in the specified time.

SECTION II - DESCRIPTION OF THE PROJECTS

The services provided by MCE are anticipated to include but not necessarily be limited to studies, investigations, reports, funding applications, design services, preparation of construction drawings and specifications, bidding services, and engineering services during construction related to:

- Additional T-Hangar Unit Expansion(s).
- 60x60 Small Corporate Hangars.
- East Side Corporate Apron.
- East Side Parallel Taxiway Extension.
- 1000 Ft. Runway 16 Overrun.
- 1000 Ft. Runway 34 Overrun.
- Individual Corporate Industrial Hangars.
- GA Parking Aprons Industrial Hangars.
- Large Corporate Hangar(s).
- Terminal Building Rehabilitation.
- Extension of Lancaster Drive.
- Maintenance and Rehabilitation of Pavements.
- Airfield Marking.

These services, when requested by the CITY OF FAYETTEVILLE, will be described in specific Task Orders to this AGREEMENT FOR ENGINEERING SERVICES.

Additional services a may be included as determined by the CITY OF FAYETTEVILLE by executing Amendments to this BASIC AGREEMENT or by specific Task Orders. Such additional services may include: other projects identified by the Master Plan update, completing air spacing forms; topographic surveys; developing city-required drainage plans; formulating Large Scale Development Plans; performing utility searches, when applicable; and other similar tasks which are outside the basic scope of services.

SECTION III – INFORMATION & SERVICES

The CITY OF FAYETTEVILLE will furnish any specifications, standards and other information that may relate to the project including GPS survey data. Aerial mapping data will be provided, free of charge, to MCE on magnetic media.

SECTION IV - SERVICES TO BE FURNISHED BY THE ENGINEER

MCE will provide the preliminary study, design, construction administration, and construction inspection services necessary to complete the following tasks under this Contract.

- A. Develop a schedule for each project upon the receipt of the notice to prepare a Task Order for each project.
- B. Attend preliminary conferences alone or with CITY OF FAYETTEVILLE representative, local officials, State and Federal agencies, utility companies and others regarding the proposed project, its general design, functions and impact.

- C. Provide surveying, mapping, and related services as required to prepare Right-of-Way/Easement documents for the "CITY OF FAYETTEVILLE'S" use in acquisition activities.
- D. Provide all field survey data from field work for designing the project and this shall be tied to the "CITY OF FAYETTEVILLE'S" GPS control network.
- E. Obtain, interpret and evaluate geotechnical data for pavement design and embankment stability.
- F. Conduct preliminary design and prepare preliminary construction limits, required right of way, ownership map, perform all needed stability analyses, design of detours where needed, and preparation of maintenance of traffic plans detailing needed signing and striping during construction, as well as for permanent application after the completion of street construction.
- G. Conduct final designs to prepare construction plans and specifications including final construction details and quantities, special provisions, cost estimates, make final field inspection with CITY OF FAYETTEVILLE, make any needed plan changes as a result of the final field inspection and all other work required to advertise and receive bids.
- H. Furnish plans to all utility companies affected by the project and shall conduct a coordination meeting among all affected utility companies to enable them to develop utility agreements regarding any necessary utility relocations.
- I. Prepare Contract Documents (Plans, Specifications, and Estimates). These documents shall be in accordance with sound engineering principles. MCE shall coordinate closely with the FAA's Airports Development Office to provide copies of the Plans and Specifications and cost estimates for review as required by the

FAA. When projects are FAA-funded, detailed Specifications shall be developed using FAA "Standards for Specifying Construction for Airports" AC 150/5370-10, or other appropriate standards approved for use by the FAA. MCE will obtain a specimen copy of the General Provisions and applicable prevailing wage rates from the FAA and the Arkansas Department of Labor for incorporation into the Specifications for the proposed project.

- J. Assist the CITY OF FAYETTEVILLE in advertising, answering bid questions, receiving of bids on the various phases of work, evaluating bids received, recommending award of bids, and award of construction contracts.
- K. Establish benchmarks for elevation control and locate horizontal work to Fayetteville's GPS Control System and provide construction reference points for alignment of the project components.
- L. Provide construction administration during the construction process including attending pre-construction conferences, visiting the site at least once per month, reviewing Shop Drawings and samples, assisting with Change Orders, preparing monthly Contractor Pay Estimates, and preparing final "Record Drawings".
- M. Provide construction inspection on either a full time or an as-needed basis during construction as required by each Task Order.

The street and parking projects will be designed and constructed to meet local standards in accordance with the CITY OF FAYETTEVILLE'S adopted criteria. These designs shall be based on Standard Specifications for Highway Construction Edition 1996 of the AHTD and latest special provisions and City of Fayetteville Specifications except that metric units will not be used. The design concept with regard to street alignment, pavement section,

geometrics, detours, right-of-way, and utility relocation shall be submitted by MCE and approved by the CITY OF FAYETTEVILLE prior to beginning design work.

SECTION V - COORDINATION WITH OWNER

As each Task Order is developed and approved the scope of engineering services and fees will be finalized. MCE shall hold conferences throughout the design of the project with representatives of the CITY OF FAYETTEVILLE to the end that the design, as perfected, shall have full benefit of the CITY OF FAYETTEVILLE'S knowledge and be consistent with the current policies and construction practices of the CITY OF FAYETTEVILLE. The CITY OF FAYETTEVILLE reserves the right to accept or reject any or all plans, but this stipulation will not relieve MCE of responsibility for the design of the project.

SECTION VI - OFFICE LOCATION FOR REVIEW OF WORK

Review of the work as it progresses under this Agreement shall be made at the CITY OF FAYETTEVILLE'S office.

SECTION VII - PRELIMINARY SUBMISSION

MCE shall submit three (3) sets of preliminary plans for each submittal at 35%, 65%, and 95%, and meet with the CITY OF FAYETTEVILLE'S staff following each submittal.

SECTION VIII - FINAL SUBMISSION

The final submission for the construction contract shall consist of the following:

- A. One (1) copy of all design calculations.
- B. The originals of all drawings, specifications and contract documents. All design drawings on magnetic media shall be submitted on disks compatible with AutoCAD Release 2005 software.
- C. The estimated cost of construction and a detailed estimate of time in calendar days required for completion of the contract.
- D. Three (3) copies of the final plans for CITY OF FAYETTEVILLE'S use.

SECTION IX - ENGINEER RESPONSIBILITY DURING "BIDDING" AND "CONSTRUCTION" PHASES

During the "Bidding" phase of the project, MCE shall provide all engineering and administrative services needed to obtain bids for the construction project, evaluate the bids, and consult with and advise the CITY OF FAYETTEVILLE as to the acceptability of the best bidder.

During the "Construction" phase of work, MCE shall provide administrative and engineering services including resident construction inspection services to determine whether the Contractor has met the requirements of the design plans and Specifications. MCE shall review the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and shall make a recommendation to the CITY OF FAYETTEVILLE regarding payment.

SECTION X - SUBCONTRACTING

Prior to entering into fee negotiations, the CITY OF FAYETTEVILLE shall approve selection of all sub-consultants to MCE. The CITY OF FAYETTEVILLE reserves the right to reject without prejudice at his discretion MCE'S selection of firms for any subcontracted tasks.

SECTION XI - TIME OF BEGINNING AND COMPLETION

MCE shall begin work under each separate Task Order within ten (10) days of notice to proceed and shall complete the plans for the construction contract within the time stipulated in each respective Task Order.

The stipulated completion time in each Task Order shall be predicated upon the fact that the CITY OF FAYETTEVILLE will promptly provide all pertinent requested information in its possession, and will conduct reviews/approvals of interim work in an expeditious manner (5 working days per submittal).

SECTION XII - FEES AND PAYMENTS

A. Engineering Planning and Design Services Preceding Construction:

MCE shall provide, as enumerated individually in each respective Task Order, application for funding, engineering study, surveying, geotechnical investigation, design, bidding, and easement preparation services for a specifically stated fee amounts.

Each Task Order shall also list fee amount for the individual tasks for the Design Phase Services work scope identified therein. The basis of this fee and justification for the fee shall be contained in an Appendix attached to each Task Order. Adjustment of the fee may be made should MCE establish and the CITY OF FAYETTEVILLE agree that there has been, or is to be, a significant change in scope, complexity or character of the services to be performed; or if the CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment.

Additionally, each Task Order shall contain an Appendix, which covers the classification and salary rate for all personnel anticipated to be assigned to this project by MCE.

Payment to MCE by the CITY OF FAYETTEVILLE for Design Phase Services shall be made within 30 days after the date of billing. The amount due will be for services rendered during the previous month. Final payment for Design Phase Services shall be made upon the CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of the "Design" phase of the project.

B. Construction Phase Services:

MCE shall provide, as enumerated individually in each respective Task Order, construction administration, construction staking, construction inspection, and construction materials testing for a specifically stated fee amounts.

Each Task Order shall also list fee amount for the individual tasks for the Construction Phase Services work scope identified therein. The basis of this fee and justification for the fee shall be contained in an Appendix attached to each Task Order. Adjustment of the fee may be made should MCE establish and the CITY OF FAYETTEVILLE agree that there has been, or is to be, a significant change in scope, complexity or character of the services to be performed; or if the CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment.

Additionally, each Task Order shall contain an Appendix which covers the classification and salary rate for all personnel anticipated to be assigned to this project by "MCE".

Payment to MCE by the CITY OF FAYETTEVILLE for Construction Phase Services shall be made within 30 days after the date of billing. The amount due will be for services rendered during the previous month. Final payment for Construction Phase Services shall be made upon the "CITY OF

FAYETTEVILLE'S" approval and acceptance with the satisfactory completion of the "Construction" phase of the project.

SECTION XIII - CHANGES

- The CITY OF FAYETTEVILLE may at any time, by written order, make changes within the general scope of the contract in the work and services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable increase or decrease shall be made in the upper limit contract amount, including fee or time of required performance, or both, and the contract shall be modified in writing accordingly.

Any claim by MCE for adjustment under this clause must be asserted with thirty (30) days from the date of receipt by MCE of the notification of change; provided, however, that the CITY OF FAYETTEVILLE, if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to the date of final payment under this contract. Failure to agree to any adjustment shall be cause for a dispute concerning a question of fact within the meaning of the clause of this contract entitled SECTION XVI - MISCELLANEOUS PROVISIONS, (1) Dispute Resolutions. However, nothing in this clause shall excuse MCE from proceeding with the contract as changed.

SECTION XIV - OWNERSHIP OF DOCUMENTS

All documents, including original drawings, disks of CADD drawings and cross sections, estimates, specifications, field notes, and data are and shall remain the property of the CITY OF FAYETTEVILLE. MCE may retain reproduced copies of drawings and copies of

other documents. The CITY OF FAYETTEVILLE shall not be restricted in the subsequent use of the design, design documents or ideas incorporated in the work. However, MCE shall bear no responsibility for such reuse of the design unless specifically agreed to it writing.

SECTION XV - POSTPONEMENT OR CANCELLATION OF THE CONTRACT

It is understood that the CITY OF FAYETTEVILLE will have the right to suspend or cancel the work at any time.

- A. Postponement - Should the CITY OF FAYETTEVILLE, for any reason whatsoever, decide to postpone the work at any time, the CITY OF FAYETTEVILLE will notify MCE, who will immediately suspend work. Should the CITY OF FAYETTEVILLE decide during such suspension not to resume the work, or should such suspension not be terminated within a year, the work shall be canceled as hereinafter provided.
- B. Cancellation - Should the CITY OF FAYETTEVILLE, for any reason whatsoever, decide to cancel or to terminate the use of MCE'S service, the CITY OF FAYETTEVILLE will give written notice thereof to MCE, who will immediately terminate the work. If the CITY OF FAYETTEVILLE so elects, MCE may be instructed to bring a reasonable stage of completion to those items whose value would otherwise be lost. MCE shall turn over all data, charts, survey notes, figures, drawings and other records or information collected or produced hereunder whether partial or complete. Upon such termination of MCE'S services, MCE shall be paid a proportional amount of the total fee, less prior partial payments, based on the ratio of work done to the total amount of work to

be performed.

SECTION XVI - MISCELLANEOUS PROVISIONS

- A. **Dispute Resolution** - Any dispute concerning a question of fact in connection with the work and having a financial value of \$10,000, or less, shall be referred for determination to the Mayor of the City of Fayetteville whose decisions in the matter shall be final and conclusive. Disputes resulting from claims greater than \$10,000 shall be subject to mediation.
- B. **Responsibility for Claims and Liability** - MCE shall save harmless the CITY OF FAYETTEVILLE from all claim and liability due to MCE's activities, or those of MCE'S sub-consultants, agents, or employees during the time this contract is in force.
- C. **General Compliance with Laws** - MCE shall comply with all Federal, State and local laws and ordinances applicable to the work. MCE shall be a Professional Engineer, licensed in the State of Arkansas.
- D. **Engineer's Endorsement** - MCE shall endorse and recommend all plans, Specifications, estimates and engineering data furnished by it. All design shall be checked in accordance with accepted engineering practices. All plan quantities shall be checked and verified.
- E. **That, the Airport Director or his designated representative will direct and coordinate MCE's efforts and will be the source of instructions to MCE and shall have the authority to interpret the CITY OF FAYETTEVILLE's policy as**

necessary to maintain MCE's work schedule and to administer the BASIC AGREEMENT.

- F. That, the CITY OF FAYETTEVILLE shall make available to MCE all technical data in the CITY OF FAYETTEVILLE's possession, including maps, surveys, borings, and other information required by MCE and relating to his work.
- G. That, the estimates of cost for the Projects provided for herein are to be prepared by MCE through exercise of his experience and judgment in applying presently available cost data, but it is recognized that MCE has no control over cost of labor and materials conditions, so he cannot warrant that the project construction costs will not vary from his cost estimates.
- H. That, MCE's direct expenses are defined as the costs incurred on or directly for the Project, other than the Salary and General Overhead Costs. Such direct expenses shall be computed on the basis of actual purchase price for items obtained from commercial sources plus a 5% mark-up. Direct expenses shall include, but not be limited to, necessary transportation costs, including mileage at MCE's current rate per mile when MCE's own automobiles are used, meals and lodging, laboratory tests, and reproduction charges.
- I. That, in Geotechnical investigation work and in determining subsurface conditions for the Project, the characteristics may vary greatly between successive test point and sample intervals. MCE will perform this work in accordance with generally accepted soils engineering practices and makes no other warranties, expressed or implied, that conditions actually encountered in the field may not vary from those found during the investigation work.

- J. That, the CITY OF FAYETTEVILLE, shall pay for all costs of publishing advertisements for bids and for obtaining permits and licenses that may be required by local, State, or Federal authorities and shall secure the necessary land, easements and rights-of-way as described by MCE.
- K. That, in the event of any legal or other controversy requiring the services of MCE in providing expert testimony in connection with the Project, except suits or claims by third parties against the CITY OF FAYETTEVILLE arising out of errors or omissions of MCE, the CITY OF FAYETTEVILLE shall pay MCE for services rendered in regard to such legal or other controversy, on a basis to be negotiated.
- L. That, visits to the construction site and observations made by MCE as part of his services shall not relieve the construction Contractor(s) of his obligation to conduct comprehensive inspections of the work sufficient to ensure conformance with the intent of the Contract Documents, and shall not relieve the construction contractor(s) of his full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s) and for all safety precautions incidental thereto.
- M. That, MCE, when called for in specific Task Orders, shall provide an on-site Resident Inspector and will make reasonable efforts to guard the CITY OF FAYETTEVILLE against defects and deficiencies in the work of the contractor(s) and to help determine if the construction contract has been fulfilled. The Resident Inspector's day-to-day observation will not, however, cause MCE to be responsible for those duties and responsibilities which belong to the construction

contractor(s) and which include, but are not limited to, full responsibility for the techniques and sequences of construction and the safety precautions incidental thereto, and for performing the construction work in accordance with the Contract Documents. The Resident Inspector shall have the authority to reject both unsatisfactory workmanship and materials. His primary duties are as follows:

1. Check construction activities to determine compliance with the Plans and Specifications. Inform the Contractor and CITY OF FAYETTEVILLE of any work that is in noncompliance.
2. Check that all testing required by the Specifications is performed.
3. Visit the testing laboratory to determine if it has the equipment and qualified personnel necessary to conduct the tests required by the Specifications.
4. Review test reports and certificates for conformance with the Specifications.
5. Maintain a file of test reports and certifications.
6. Inform the Contractor of deficiencies in order that corrections can be made and retesting performed prior to covering any substandard work with additional material.
7. Document quantities of materials used on the project by actual measurements and computations in a field notebook or computer printouts retained in a folder.
8. Maintain a diary, which should contain daily entries made and signed by the Resident Observer. Each entry should include the following, plus any additional pertinent data:

- (A) Date and weather conditions.
- (B) Names of important visitors.
- (C) Construction work in progress and location.
- (D) Size of Contractor's work force and equipment in use.
- (E) The substance of important conversations with the Contractor concerning conduct, progress, changes, test results, interpretations of Specifications or other details.

9. Submittal of FAA Form 5370-1, Construction Progress and Inspection Report, or equivalent form to the appropriate FAA field office. The frequency of submittal shall be established at the Pre-Construction Conference.

N. It is further agreed that the CITY OF FAYETTEVILLE, the Federal Aviation Administration, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of MCE which are directly pertinent to the work hereunder, for the purpose of making audit, examination excerpts and/or transcriptions. Records under this Section shall be maintained and made available during performance on FAA grant work under this AGREEMENT and until three years from date of final FAA grant payment for the project. In addition, those records which relate to any "dispute" appear under an FAA grant agreement, or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

- O. In accordance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations, MCE agrees that he will not discriminate against any employee or applicant for employment because of race, religion, age, color, sex, or national origin.
- P. In executing this AGREEMENT, MCE acknowledges that he has visited the site of the work, that he is familiar with the conditions and characteristics of the site, and that he fully understands the nature, extent and character of the project and the time limitations placed thereupon. He further states that he has discussed the proposed work with the representatives of the CITY OF FAYETTEVILLE.
- Q. MCE hereby assures that he has and will comply with the Title VI and DBE requirements set forth in Appendix 1, hereinafter.
- R. MCE hereby states that he has performed planning and design engineering on previous through his laboratory facilities, he has previously performed pertinent work on other airport projects, as well as other projects of a similar nature, and that he has the staff and capabilities to perform the work described herein, in a professional and timely manner.
- S. Exhibit A, CERTIFICATION OF MCE, is attached to, and made a part of this AGREEMENT FOR ENGINEERING SERVICES, per requirement of the FAA.

- T. MCE will provide the Federal Aviation Administration with three (3) copies of the updated Airport Layout Drawing at the conclusion of each AIP project.
- U. MCE will perform the duties of the "consultant" set forth in the CONSTRUCTION MATERIALS QUALITY CONTROL PROGRAM, attached hereafter as Exhibit B.

SECTION XVII - SUCCESSORS AND ASSIGNS

The CITY OF FAYETTEVILLE and MCE each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement, except as above, neither the CITY OF FAYETTEVILLE nor MCE shall assign, sublet or transfer its interest in this Agreement without written consent of the other. Nothing herein shall be construed as creating any possible personal liability on the part of any officer or agent of any public body which may be party hereto.

SECTION XVIII - COVENANT AGAINST CONTINGENT FEES

MCE warrants that it has not employed or retained by company or person, other than a bonafide employee working solely for MCE, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bonafide employee working solely for MCE, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract.

For breach or violation of this warranty, the CITY OF FAYETTEVILLE shall have the right to annul this contract without liability.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly
executed as of the date and year first herein written.

FOR THE CITY OF FAYETTEVILLE

By: _____
Mayor

ATTEST: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.

By: John Quinn
President

ATTEST: R. W. [Signature]

Date: 5/10/06

APPENDIX A

Hourly Rates for Personnel Drake Field, Fayetteville Municipal Airport

<u>CATEGORY</u>	<u>BILLABLE HOURLY RATE RANGE</u>
Principal Engineer	\$ 140.00
Sr. Project Manager	\$ 130.00
Project Manager	\$ 120.00
Project Engineer II	\$ 100.00
Project Engineer I Design Engineer	\$ 80.00
Landscape Architect	\$ 82.00
Engineering Technician III	\$ 75.00
Engineering Technician II	\$ 60.00
Engineering Technician I	\$ 45.00
Construction Observer III	\$ 75.00
Construction Observer II	\$ 50.00
Construction Observer I	\$ 40.00
Chief Draftsman	\$ 65.00
Draftsman II	\$ 50.00
Draftsman I	\$ 45.00
Computer Technician	\$ 66.00
Survey Technician	\$ 70.00
Registered Land Surveyor	\$ 85.00
2-Man or Robotic Survey	\$ 130.00
Party Chief	\$ 60.00
Soils Lab Supervisor	\$ 52.00
Soils Lab Technician II	\$ 40.00
Soils Lab Technician I	\$ 35.00
Water Lab Supervisor	\$ 50.00
Water Lab Technician	\$ 35.00
Clerk/Typist	\$ 45.00
Mileage	\$ 0.40

* Subject to Annual Adjustment Mid-Year.

**EXHIBIT A TO BASIC AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES
DATED June 6, 2006**

CERTIFICATION OF ENGINEER

I hereby certify that I am President and a duly authorized representative of the firm of McClelland Consulting Engineers, Inc. whose street address is 1810 North College Avenue, Fayetteville, Arkansas, and that neither I nor the above firm hereby represented has:

- a. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract.
- b. agreed, as an express or implied condition for obtaining this contract, to employ or retain the service of any firm or person in connection with carrying out the contract, or
- c. paid or agreed to pay any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this contract involving participation of Airport Improvement Program (AIP) funds and is subject to applicable state and federal laws, both criminal and civil.

5/10/06
(Date)

John C. Quinn
President

**EXHIBIT B TO BASIC AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES
DATED June 6, 2006**

CONSTRUCTION MATERIALS QUALITY CONTROL PROGRAM

1. The Consultant shall prepare a "Construction Materials Quality Control Plan" to be submitted to the Federal Aviation Administration (FAA) for approval at the time of final Plans and Specifications submittal. At a minimum, the Plan shall list all materials to be tested during construction, the appropriate time for testing, the ASTM test designation, name by which the test is commonly referred, the frequency of testing required, the method of sampling, and the acceptance criteria or tolerances permitted for each type of test. The Plan will be reviewed by the FAA project manager and must be approved along with the final Plans and Specifications for construction.
2. The Consultant shall prepare a "Construction Materials Quality Control Summary" to be submitted monthly to the FAA. At a minimum, the Summary shall include a list of all tests performed showing the date, location, pass or fail, results of retests, and whether or not the test is eligible or ineligible under the A.I.P. program. The Summary will include a certification that all testing was completed in accordance with the "Construction Materials Quality Control Plan".
3. The Consultant shall prepare a summary of materials not passing and the penalty called for by the Specifications. This summary shall be submitted to the FAA monthly and will indicate when and to what extent penalties are imposed. The penalties assessed will be itemized in the following pay request to the FAA.

APPENDIX 1 - CONTRACTOR CONTRACTUAL REQUIREMENTS

TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor of the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any

information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to -

- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or

- (b) cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCES

1. Policy. It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.

2. DBE Obligation. The contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

May 10, 2006

RECEIVED

MAY 11 2006

AIRPORT

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Basic Agreement 2006
Fayetteville Municipal Airport

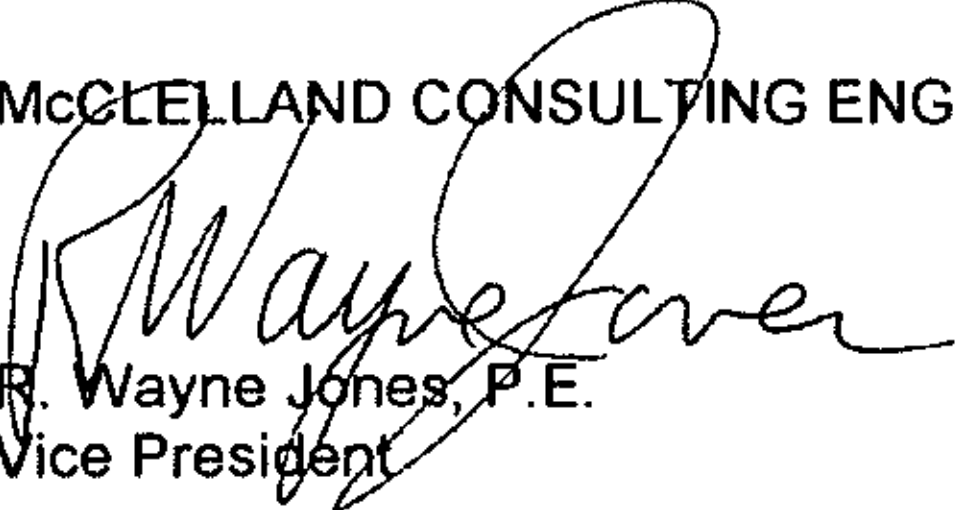
Dear Mr. Boudreaux:

In response to your request and our selection as the Airport Engineer for the next three years, please find three (3) copies of our Basic Agreement for 2006.

Please advise if you need further information regarding this Amendment.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.


R. Wayne Jones, P.E.
Vice President

Enclosure: Basic Agreement 2006 (3 copies)

CITY ATTORNEY AGENDA REQUEST

FOR: COUNCIL MEETING OF JUNE 6, 2006

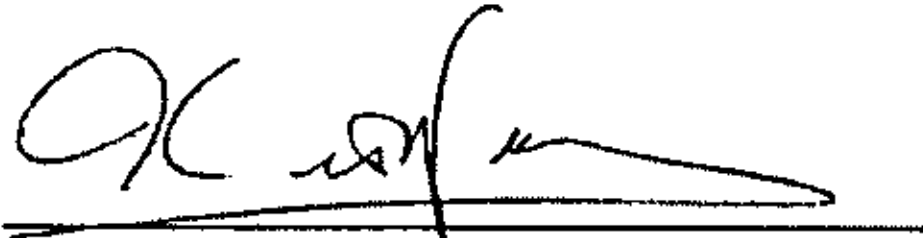
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve Washington Regional Medical Center's Performance Bond And Promissory Note To Guarantee Payment Of An Offsite Improvement (Traffic Light) In The Amount Of \$110,000.00

APPROVED FOR AGENDA:



City Attorney

5-16-06

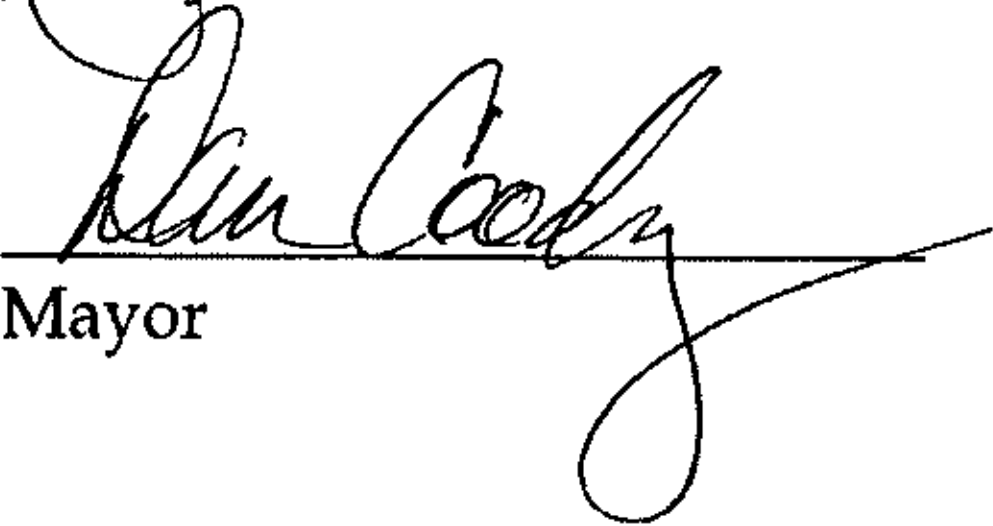
Date



Jeremy Pate

05-16-06

Date



Mayor

5/16/06

Date

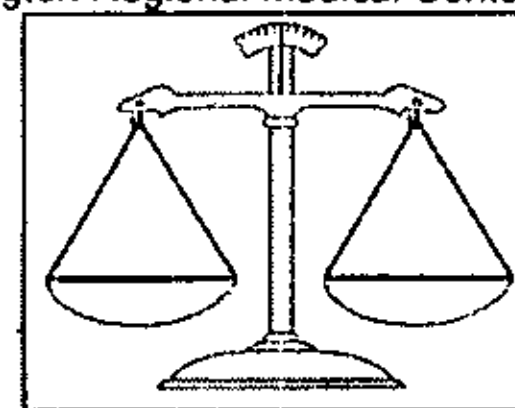
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

A. 5
Washington Regional Medical Center Performance Bond
Page 2 of 10



LEGAL DEPARTMENT

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

FROM: **Kit Williams, City Attorney**

DATE: **May 17, 2006**

RE: **Approval of Washington Regional Medical Center's
\$110,000.00 Performance Bond and Promissory Note**

Mr. Thomas J. Olmstead has requested that the City Council approve the \$110,000.00 Performance Bond and Promissory Note from Washington Regional Medical Center to satisfy its required condition of approval for its Large Scale Development to fund future probable construction of a traffic signal at the intersection of Futrall Drive, Fulbright Expressway and North Hills Boulevard.

Attached is §158.05 (B) stating that a "developer may, **with approval of the City Council**, guarantee payment of said amount so determined by executing a ... performance bond" Also attached is the proposed performance bond, the form of which I have approved.

Upon our approval of this bond and promissory note, WRMC may proceed with its new (already approved) expansion project. Although a traffic study found such a traffic light to be necessary, this bond would not tie up WRMC's \$110,000.00 until such a traffic signal was approved and its construction authorized. This performance bond is not backed up by an insurance company, but by WRMC's own promissory note.

Although this is not typical, I believe Washington Regional Medical Center as a substantial, long term, and vital non-profit health facility serving Fayetteville's citizens should be granted this option.



Thomas J. Olmstead
GENERAL COUNSEL
211 N. College Avenue
P. O. Box 290
Fayetteville, Arkansas 72702-0290
Telephone: 479-443-3896
Facsimile: 479-443-3889
E-Mail Address:
tolmstead@wregional.com

May 12, 2006

Via hand delivery

Mr. Kit Williams
City Attorney
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Assessment for off-site improvement LSD 06-1960 and LSD 06-1961;
Washington Regional Medical Center

Dear Kit:

In accordance with our telephone conversation yesterday morning, enclosed you will find a proposed Performance Bond and Promissory Note (the "Agreement") that Washington Regional Medical Center would execute to fulfill its obligations regarding the \$110,000.00 assessment for construction of a traffic signal at the Fulbright Expressway/Futrell Drive intersection, which assessment was a condition of approval passed by the City Planning Commission in conjunction with the referenced large scale developments.

Washington Regional Medical Center would appreciate the consideration of the City Council with respect to the proposed Agreement pursuant to Section 158.05(B) of the Unified Development Ordinance. As a nonprofit healthcare organization that utilizes all assets to further its charitable mission of providing for the healthcare needs of the citizens of Northwest Arkansas, it is our hope that the City Council will favorably receive this request and permit Washington Regional Medical Center to retain use of the \$110,000.00 until such time as the City of Fayetteville commences construction of the traffic signal at the Fulbright Expressway/Futrell Drive intersection.

Should you have any questions, please give me a call.

Yours very truly,



Thomas J. Olmstead

TJO/nm
Enclosure
Cc: Mr. William L. Bradley

Fayetteville Code of Ordinances

158.02 Excavation in public rights-of-way

Cash bond. No person shall make any excavation of a street or public right-of-way unless a cash bond is first deposited with the city for the purpose of guaranteeing repair and replacement of said street or public right-of-way. Said cash bond shall be in an amount equivalent to the estimated cost of properly repairing and replacing said street or public right-of-way, as determined by the Mayor, or his duly authorized representative.

(Code 1991, §161.23; Ord. No. 3551, 6-4-91; Ord. No. 4100, §2 (Ex. A), 6-16-98)

158.03 Maintenance

(A) *Installed improvements.* An acceptable maintenance bond shall be provided in the amount of the contract price of the improvement against defects in workmanship and materials for a period of one year from the date of acceptance of such improvements. The bond shall be filed with the City Engineer prior to the acceptance of the improvements by the city.

(B) *Stormwater management, drainage and erosion control.* A one (1) year maintenance bond for the stormwater management drainage system. The bond shall run from the date of final acceptance and for a one-year period thereafter. A walk-through shall be performed at the end of the one-year period and all deficiencies corrected prior to the release of the bond.

(Code 1965, App. C., Art. III, §C; Ord. No. 1750, 7-6-70; Code 1991, §§159.35, 163.13; Ord. No. 3895, §1, 6-20-95; Ord. No. 4100, (Ex. A), 6-16-98)

158.04 Grading; Bonds/Sureties

The building official may require bonds or other sureties in such form and amounts as may be deemed necessary to assure the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

(Code 1991, §161.23; Ord. No. 3551, 6-4-91; Ord. No. 4100 (Ex. A), 6-16-98)

158.05 Off-Site Improvements/Delays

(A) *Proportionate share.* If the Planning Commission determines that a needed off-site improvement cannot be built until future development occurs, the developer shall pay to the city an amount determined by the Planning Commission, in accordance with the standards prescribed in §166.07, to be the developer's proportionate share of the cost of said off-site improvements as of the date of final plat or large scale development approval.

(1) The city shall deposit said money into an interest bearing escrow account until such time as the off-site improvement is constructed and shall provide for payment of interest on said amount at the rate of 10% per annum, or the maximum rate allowable under Arkansas law, whichever is lower.

(2) If the off-site improvement is not constructed within five (5) years from the date of the first payment into the escrow account by a developer, the Planning Commission shall hold a public hearing, after notification to all affected property owners, to determine the disposition of all money in the escrow account. Following the public hearing, the Planning Commission may:

(a) Determine that the off-site improvement is still necessary and feasible, and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the Planning Commission; or

(b) Determine that the off-site improvement is not necessary, or will not be feasible, or that insufficient development has occurred to render the improvement likely in the foreseeable future, in which case the Planning Commission shall refund the monies to the then current owner of the land for which such fee was paid with interest since the date of payment. Interest shall be based on a five percent (5%) annual rate.

(c) With the written consent of a majority of the property owners who have purchased lots in the subdivision(s) and the developer(s), direct that money in the escrow account be utilized for a different purpose which will specifically benefit the neighborhood.

(B) *Bill of Assurance/performance bond.* The developer may, with approval of the City Council, guarantee payment of said amount so determined by executing a bill of assurance, or performance bond in a form approved by the City Attorney.

Bills of Assurance and/or performance bonds shall meet the following requirements:

(1) Bills of assurance shall be filed of record and shall be a covenant running with the land.

(2) Bills of assurance, or performance bonds, shall obligate the landowner to pay the city the amount so determined by the Planning

TITLE XV UNIFIED DEVELOPMENT CODE

Commission within 10 days from receipt of
written notice from the city.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

158.06 Sidewalks

In lieu of issuing a notice as set forth in §171.12, the mayor may accept a bill of assurance executed by the property owner to guarantee installation of the sidewalk within three months from receipt of notice from the mayor. The property owner's obligation under the bill of assurance shall be a covenant running with the land, and the form of the bill of assurance shall be approved by the city attorney.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Streets and Sidewalks, Ch. 171.

158.07-158.99 Reserved

RESOLUTION NO. _____

A RESOLUTION TO APPROVE WASHINGTON REGIONAL MEDICAL CENTER'S PERFORMANCE BOND AND PROMISSORY NOTE TO GUARANTEE PAYMENT OF AN OFFSITE IMPROVEMENT (TRAFFIC LIGHT) IN THE AMOUNT OF \$110,000.00

WHEREAS, the Planning Commission determined pursuant to a traffic study that the expansion of Washington Regional Medical Center required the installation in the near future of a traffic signal at the intersection of Futrall Drive, Fulbright Expressway and North Hills Boulevard for the estimated cost of \$110,000.00; and

WHEREAS, Washington Regional Medical Center, Inc. has offered the attached Performance Bond and Promissory Note to guarantee payment of up to \$110,000.00 for this traffic signal.

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 approves acceptance of the Performance Bond and Promissory Note of Washington Regional Medical Center, Inc. (attached as Exhibit "A") to guarantee the payment of up to \$110,000.00 for the traffic signal.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

\$110,000.00

Fayetteville, Arkansas
May 30, 2006

PERFORMANCE BOND AND PROMISSORY NOTE

THIS PERFORMANCE BOND AND PROMISSORY NOTE ("Agreement") is made as of the 30 day of May 2006 by and between Washington Regional Medical Center, an Arkansas nonprofit corporation, and the City of Fayetteville, Arkansas.

WHEREAS, the City of Fayetteville through its Planning Commission has approved two large scale developments submitted on behalf of Washington Regional Medical Center, specifically LSD 06-1960 (WRMC Senior Center 211/212) and LSD 06-1961 (WRMC Administrative Services Building, Emergency Services, Parking Garage 211/212), LSD 06-1960 having been approved by the Planning Commission of the City of Fayetteville on April 10, 2006 and LSD 06-1961 having been approved by the Planning Commission of the City of Fayetteville on April 24, 2006; and

WHEREAS, a Condition of Approval passed by the Planning Commission in conjunction with LSD 06-1960 and LSD 06-1961 is that Washington Regional Medical Center submit a monetary assessment for off-site improvements in the amount of One Hundred Ten Thousand Dollars (\$110,000.00), such sum representing the full cost of a traffic signal for the intersection of Futrall Drive, the Fulbright Expressway, and North Hills Boulevard (hereinafter "the Off-Site Improvement"); and

WHEREAS, City of Fayetteville Unified Development Ordinance Section 158.05(B) permits the City Council for the City of Fayetteville to approve and accept a bill of assurance or performance bond from a property owner required as a condition of approval of a large scale development to pay an assessment for future off-site improvements in lieu of an immediate payment of the assessed amount which would be deposited in an interest bearing escrow account; and

WHEREAS, it is the desire of the City of Fayetteville to permit Washington Regional Medical Center to retain the use of its funds until such time as the City of Fayetteville announces that it will commence construction of the Off-Site Improvement.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE RECITALS AND VALUE RECEIVED AND DESCRIBED ABOVE, the parties agree as follows:

Promise to Pay. Washington Regional Medical Center, promises to pay to the order of the City of Fayetteville, Arkansas the sum of One Hundred Ten

Thousand Dollars (\$110,000.00) within ten (10) days of its receipt of written notice from the City of Fayetteville announcing that the City of Fayetteville will commence construction of the Off-Site Improvement within ninety (90) days of the date of such notice. Such amount shall be exclusive of interest, unless Washington Regional Medical Center fails to pay the entire amount within ten (10) days of its receipt of written demand for payment in accordance with the terms of this Agreement, in which event interest shall accrue at the highest rate allowed under Arkansas law from the date of such written demand until the entire principal amount, together with accrued interest, is paid in full. In the event the Off-Site Improvement is not constructed within five (5) years from the date of this Agreement, this Agreement shall expire and be of no further force or effect.

In the event this note is placed in the hands of an attorney for collection Washington Regional Medical Center agrees to pay a reasonable sum for attorney's fees, not to exceed ten percent (10%) of the unpaid principal.

All payments contemplated herein shall be payable at the City of Fayetteville, 113 W. Mountain Street, Fayetteville, Arkansas, Attn:

_____.

Successors and Assigns. This Agreement shall inure to the benefit of and is and shall continue to be binding upon the parties, their successors, representatives, receivers, to permit Borrower to assign this Agreement or any of Borrower's rights or obligations under this Agreement without first obtaining Secured Party's express written approval.

Applicable Law. This Agreement shall be governed by and construed under the laws of the State of Arkansas.

Severability. If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement.

Remedies Cumulative. All rights, remedies and powers of Secured Party under this Agreement, the Documents or any other obligation shall be cumulative and may be exercised singly or concurrently.

Waiver by City. The City of Fayetteville shall not, by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement. A waiver shall be valid only if in writing and signed by the City of Fayetteville. A waiver by the City of Fayetteville of any right or remedy under this Agreement on any one occasion shall not bar the City of Fayetteville from asserting any right or remedy on any future occasion.

Waiver by Washington Regional. Washington Regional Medical Center agrees that presentment, demand for payment, protest, notice of protest, notice

of dishonor, filing of suit and diligence in collecting payment under this Agreement are waived.

Notices. All communications in connection with this Agreement shall be in writing and shall be deemed properly given if hand delivered or sent by overnight courier with adequate evidence of delivery or sent by registered or certified mail return receipt requested to the following addresses:

Washington Regional Medical Center
3215 N. North Hills Boulevard
Fayetteville, Arkansas 72703
Attn: President & Chief Executive Officer

City of Fayetteville, Arkansas
113 W. Mountain Street
Fayetteville, Arkansas
Attn: _____

Any notice shall be deemed given on the earlier of the date actually received, or two (2) business days after delivery in compliance with this Section.

Complete Agreement and Amendment. This Agreement is the complete written agreement of the parties with respect to the subject matter of this Agreement and supersedes any prior understandings or written agreements. This Agreement may be amended only upon the written agreement of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

WASHINGTON REGIONAL MEDICAL
CENTER, an Arkansas nonprofit corporation

By:



William L. Bradley
President & Chief Executive Officer

CITY OF FAYETTEVILLE, ARKANSAS

By:

Dan Coody, Mayor

Attest:

City Clerk

STATE OF ARKANSAS)
)ss
COUNTY OF WASHINGTON)

ACKNOWLEDGMENT

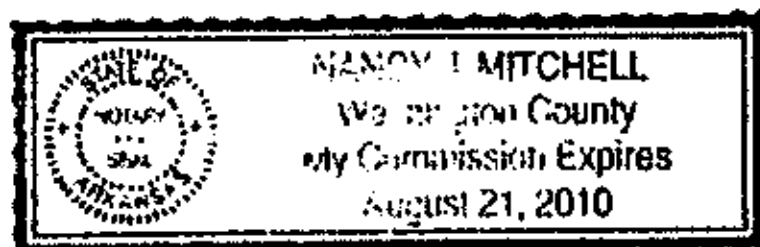
On this day, before me personally appeared William L. Bradley, to me personally well known, who acknowledged that he is the President and Chief Executive Officer of Washington Regional Medical Center, an Arkansas nonprofit corporation, and that he, as such an officer, being authorized to do so, has executed the foregoing Agreement for the consideration and purposes therein contained, by signing the name of the corporation as such officer.

WITNESS my hand and official seal this 30th day of May, 2006.

Nancy J. Mitchell
NOTARY PUBLIC

My Commission Expires:

8-21-10



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

June 6, 2006
~~15 May 06~~

City Council Meeting Date

David Wright/Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

Award Youth Soccer Uniform RFP # 02-27 to Score Uniforms at a cost not to exceed \$22,394 in the Fall of 2006 and \$4,000 in Spring 2007.

\$26,394.00

Cost of this request

1010.5220.5200.05

Account Number

Project Number

\$ 49,449.00

Category/Project Budget

\$ 11,527.00

Funds Used to Date

\$ 37,922.00

Remaining Balance

Tournament Supplies and Awards

Program Category / Project Name

Administration/Recreation Transfers

Program / Project Category Name

General

Fund Name

Budgeted Item ☒

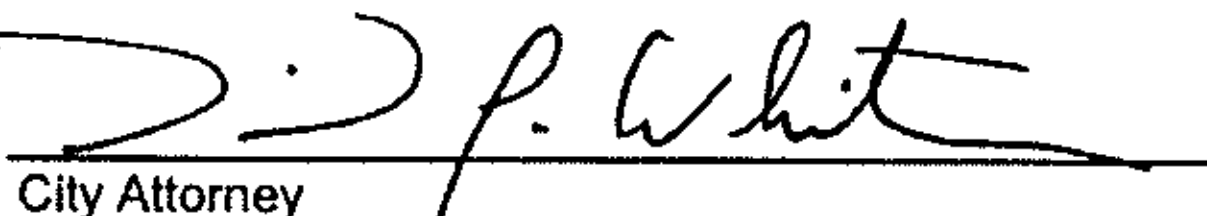
Budget Adjustment Attached ☐

 S-16-06
Department Director Date

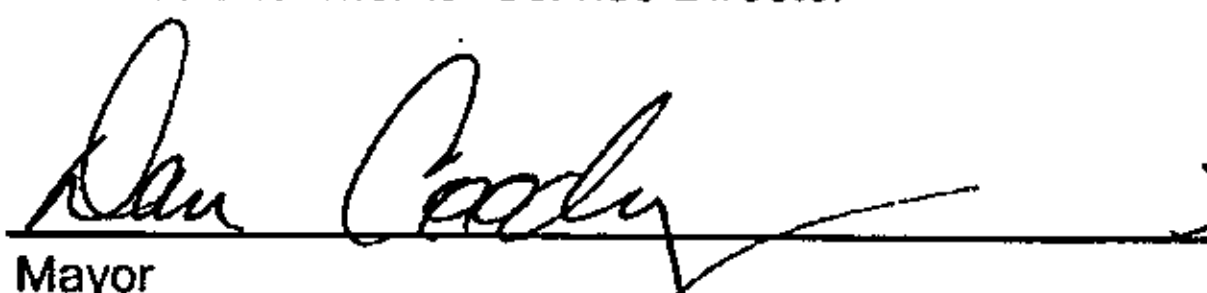
Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

 5/17/06
City Attorney Date

 5/19/06
Finance and Internal Service Director Date

 5/23/06
Mayor Date

Received in City Clerk's Office

ENTERED
5/16/06

Received in Mayor's Office

ENTERED
5/17/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 6
Score Uniforms-Soccer Uniform Purchase
Page 2 of 8

To: Mayor Dan Coody and City Council

Thru: Connie Edmonston, Parks and Recreation Director *C.E.*

From: David Wright, Recreation Superintendent *DW*

Date: Monday, May 15, 2006

Re: Soccer Uniform Bid #06-05 Award

Background:

One of the fastest growing recreation programs in America is Youth Soccer. Fayetteville Parks and Recreation's Soccer Program is no exception. This past spring, 1,429 kids participated in Fayetteville's soccer program, making it the largest youth soccer program in Arkansas.

Status:

Currently, Fayetteville Parks and Recreation charges a registration fee that ranges from \$45 to \$85 per participant, depending on age. Included in this registration fee is the price for uniforms, a secondary insurance fee, equipment, official's fees and other expenses included in the program. More specifically, Parks and Recreation budgets \$19 per child for soccer uniforms. This includes a shirt, shorts and a pair of soccer socks. This past month, an RFP was released asking companies to submit possible uniforms for our program to use. The selection committee consisted of Brenda Thiel, Chase Gipson, David Wright, Shelly Tuberville, Missy Shanklin and Allyson Twiggs. This group included two members from Youth Soccer Advisory Board, which is comprised of parents who help determine the direction of our youth program. The selection committee chose Score's Chile Style Uniform, at the cost of \$15.95 per uniform. This uniform includes a soccer jersey, a pair of shorts and soccer socks.

Recommendation:

Parks and Recreation Staff recommends City Council award Bid #06-05 to Score Uniforms at an amount not to exceed \$22,394 for the Fall Season and \$4,000 for the Spring 2007 Season. The amount for the Spring Season depends on the number of children who enroll in the program. Allowing the amount for the Spring Season enables the children who register to play only in the Spring Season to have the same uniforms design as the children who play in the Fall Season.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #06-05 AND APPROVING THE PURCHASE OF YOUTH SOCCER UNIFORMS FROM SCORE UNIFORMS IN AN AMOUNT NOT TO EXCEED \$22,394.00 FOR THE FALL 2006 SEASON AND \$4,000.00 FOR SPRING 2007 SEASON.

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 #06-05 and approves the purchase of youth soccer uniforms from Score Uniforms in an amount not to exceed \$22,394.00 for the Fall 2006 Season and \$4,000.00 for the Spring 2007 Season.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk



EVALUATION FORM

RFQ 06-05, Soccer Uniforms

Evaluation Factors	Possible Points	FIRM'S NAME				
		1 DTI	2 Anaconda	3 Challenger	4 American Score	5 Embroid Me
Qualifications	15 ²⁸					
Quality, Design, and Appearance	28 ²⁸ 2 nd					
Proposed Work Method	28 ²⁸ 3 rd					
Past Performance	28 ²⁸ 4 th	1				
Price	5 ¹⁰					1
TOTAL POINTS	100					

COMMENTS:

1st = SCORE
2nd = Anaconda
3rd = Challenger

City of Fayetteville
RFP 06-05, Soccer Uniforms



VENDORS WHO DO NOT WISH TO RESPOND TO A BID ARE NOT REQUIRED TO DO SO.

Please Print or Type

Company Name: AMERICAN SOCCER CO. INC.

Phone: 800-626-1114

Address: 726 E. ANAHEIM ST.

Fax: 800-426-1222

City: WILMINGTON

Email: VICKI@SCORESPORTS.COM

State: CA

Web Site: WWW.SCORESPTS.COM

Zip Code: 90744

Tax ID or SSN: 95-2984338

RFP NUMBER AND RFP OPENING DATE "MUST" BE NOTED ON OUTSIDE OF ENVELOPE.

**BIDS MAY NOT BE FAXED DIRECTLY TO THE CITY OF FAYETTEVILLE
IN RESPONSE TO THIS REQUEST FOR PROPOSAL.**

PROPOSAL MUST BE SIGNED IN INK OR IT WILL NOT BE CONSIDERED.

Name (Type or Print): VICKI CAIRNS

Title: SALES MANAGER

Signature: Vicki Cairns

Date: 4/25/06

**This section must be signed by an individual who has proper authority to sign documents on behalf of company submitting a proposal.*



726 E. Anaheim Street
Wilmington, CA 90744
Tel. 800.626.7774
Fax 800.426.1222

Bid for
City of Fayetteville RFP#06-05

Bid/ Soccer Uniforms

DATE: April 25, 2006
CLIENT NAME: Andrea Foren
ACCOUNT NAME: City of Fayetteville
ADDRESS: 113 West Mountain Street Room #306
CITY: Fayetteville **STATE:** AR **ZIP:** 72701
PHONE: (479) 575-8220

Soccer Jersey/short/sock

	<i>Jersey Style</i>	<i>Pricing</i>
→ #225 Ukraine	available in 23 colors	\$16.45 youth \$17.45 adult
#230 Cameroon	available in 21 colors	\$15.95 youth \$16.95 adult
→ #290 Chile	available in 24 colors	\$14.95 youth \$15.95 adult
#530 Poland	available in 22 colors	\$14.45 youth \$15.45 adult
#210 Wales	available in 22 colors	\$14.95 youth \$15.95 adult

with your choice of the following shorts:

#117A Sydney	available in 11 colors
#155A Milan	available in 11 colors
<i>and</i>	
#800 Solid Sock	available in 20 colors

Misc. Information:

- Standard 8" consecutive back numbers from 1 or 2 to 20 are included in price.
- Numbers over 20 are \$1.00 per jersey.
- 4" front numbers are \$1.00 per jersey.
- Your logo, in standard white with black outline, can be set up and applied to the left chest at no charge.
- All add-on uniform orders will be at the same price.
- Orders will be packed by team and boxed by division.
- **Production** time will be approximately 3 to 5 weeks from receipt of purchase order.
- **Delivery** time will be approximately 4 business days via UPS Ground Service. Expedited service is available.
- **ESTIMATED SHIPPING** will be approximately \$1060.00 based on the purchase of 1800 uniforms, via UPS Ground Service.
- You will receive 1 Jupiter Soccer Ball for every team, style #1000.

Please contact Vicki (800) 626-7774 with any questions.

QUOTED BY: Vicki Cairns, Government Sales Manager
American Soccer Company, Inc.®

www.scoresports.com • Email: sales@scoresports.com

City Of Fayetteville
(Not a Purchase Order)Requisition No.: _____ Date: 5/16/2006
P.O. Number: _____ Expected Delivery Date: _____

Vendor #: 9997

Vendor Name: _____

Score

Address: _____

Fob Point: _____

Mail Yes: _____ No: x
Taxable Yes: _____ No: _____
Quotes Attached Yes: _____ No: _____

City: _____

State: _____

Zip Code: _____

Ship to code: 75

Division Head Approval: ADW

Requester: David Wright

Requester's Employee #: 707

Extension: 481

Item Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Project/Subproject #

Inventory #

Fixed Asset #

1 Soccer Uniforms for Fall 2006 Season

1

ea

22,364.00

\$22,364.00

1010.5220.5200.05

2

3

4

5

6

7

8

9

10

Shipping/Handling

Lot

Special Instructions:

Subtotal:

\$22,364.00

Tax:

\$2,068.67

Total:

\$24,432.67

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

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

June 6, 2006
Agreement for Mayor Signature
City Council Meeting Date

David Jurgens Water/Wastewater Water/Wastewater
Submitted By Division Department

Action Required:

Approval of an agreement with the Arkansas Department of Environmental Quality to install an air monitoring station consisting of a temporary building built on concrete blocks, meteorological equipment including one 15 foot mast attached to the building, on the Markham Water Storage Tank site.

\$0.00	\$ -	
Cost of this request	Category/Project Budget	Program Category / Project Name
	\$ -	Water Tanks and Pumps
Account Number	Funds Used to Date	Program / Project Category Name
	\$ -	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature] 19 MAY 06 Previous Ordinance or Resolution # _____
Department Director Date Original Contract Date: _____

[Signature] 5/22/06 Original Contract Number: _____
City Attorney Date

[Signature] 5/23/06 Received in City Clerk's Office
Finance and Internal Service Director Date

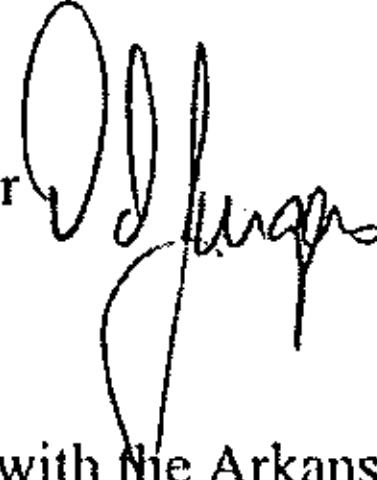
[Signature] 5/23/06 Received in Mayor's Office
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director



Date: May 19, 2006

Subject: Approval of a Memorandum of Agreement with the Arkansas Department of Environmental Quality to install an air monitoring station, consisting of a temporary building built on concrete blocks, meteorological equipment including one 15 foot mast attached to the building, on the Markham Water Storage Tank site.

RECOMMENDATION

Signature of the attached of an Memorandum of Agreement with the Arkansas Department of Environmental Quality to install an air monitoring station, consisting of a temporary building built on concrete blocks, meteorological equipment including one 15 foot mast attached to the building, on the Markham Water Storage Tank site.

BACKGROUND

The Arkansas Department of Environmental Quality (ADEQ) is planning to establish a long term air monitoring station within the City of Fayetteville, and would like to establish the station at the Markham Hill Water Tank site. The air monitoring station requires the placement of a temporary building built on concrete blocks, meteorological equipment including one 15 foot mast attached to the building, and other necessary equipment to complete the station.

DISCUSSION

The air monitoring station is mounted on concrete blocks, and can be moved if necessary for tank site maintenance. It is an excellent location for the facility because of the long term nature of a water tank site. The location is also ideal to meet ADEQ's needs.

BUDGET IMPACT

There is no cost associated with this agreement.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT WITH THE
ARKANSAS DEPARTMENT OF ENVIRONMENTAL
QUALITY (ADEQ) TO INSTALL AN AIR MONITORING
STATION ON THE MARKHAM WATER STORAGE TANK
SITE.

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 the Arkansas Department of Environmental Quality to install
an Air Monitoring Station on the Markham Water Storage Tank site.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

MEMORANDUM OF AGREEMENT BETWEEN THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF FAYETTEVILLE

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to establish a framework to ensure support and coordination between the Arkansas Department of Environmental Quality (ADEQ) and the City of Fayetteville.

II. BACKGROUND

The Arkansas Department of Environmental Quality (ADEQ) is planning to establish a long term air monitoring station within the City of Fayetteville. The air monitoring station will require the placement of a temporary building built on concrete blocks, meteorological equipment including one 15 foot mast attached to the building, and other necessary equipment to complete the station at the candidate site. The Markham Hill Water Tower Facility owned by the City of Fayetteville was chosen as a candidate site to establish the air monitoring station.

III. THE CITY OF FAYETTEVILLE AGREES TO:

- A. Provide a twelve foot by fourteen foot location for an air monitoring building, meteorological tower, and all necessary equipment associated with the air monitoring station at the Markham Hill Water Tower Facility in Fayetteville. This site will be in the approximate location as shown on the attached site plan.
- B. Allow ADEQ to install an air monitoring building, a meteorological tower, and all necessary equipment associated with the air monitoring station despite minor changes to existing landscaping.
- C. Allow ADEQ's authorized representative access to the air monitoring station in the water tower facility as necessary to maintain equipment and collect data associated with the station.

IV. ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AGREES TO:

- A. Install and maintain air monitoring building, meteorological tower, and all equipment associated with air monitoring station.
- B. Pay for all electricity and phone service installation costs associated with the air monitoring station.
- C. Pay for monthly phone and electricity usage costs associated with the air monitoring station.

- D. Move the structure as required for maintenance or other reasons upon receiving thirty days written notice of the need to move the structure.

V. LIABILITIES

The City of Fayetteville is not liable for any damage to the air monitoring trailer, meteorological tower, or equipment installed by ADEQ in association with the air monitoring station. The City of Fayetteville is not liable for any theft of equipment installed by ADEQ in association with the air monitoring station. The City of Fayetteville is not liable for any personal injury to ADEQ's employee or representative while accessing the water tank facility.

VI. Time Parameters of Agreement

This MOA becomes effective upon signature by all parties identified and shall continue until future modification. This agreement may be modified at any time upon the mutual written consent of the parties.

AR Department of Environmental Quality
8001 National Drive, P.O. Box 8913
Little Rock, Arkansas 72219

City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

 5/12/04

Marcus Devine, Director Date

Dan Coody, Mayor Date

Witnessed By

Sondra Smith, City Clerk Date

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

A. 8
RJN Group, Inc. Amendment No. 2
Page 1 of 10

6-Jun-06
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Approval of a contract amendment with the RJN Group, for engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington sewer basin, as required by the Farmington - Fayetteville Arbitration Agreement dated 22 October, 2004, in the amount of \$124,105.00, and approve a 5% contingency of \$6,200.00. Funds are available in Fiscal Year 2006 project budget.

\$130,305.00
Cost of this request
5400-5800-5815.00
4480-9480-5315.00
Account Number
04042-0001
Project Number

\$ 541,831.00
Category/Project Budget
\$ 52,799.85
Funds Used to Date
\$ 489,031.15
Remaining Balance

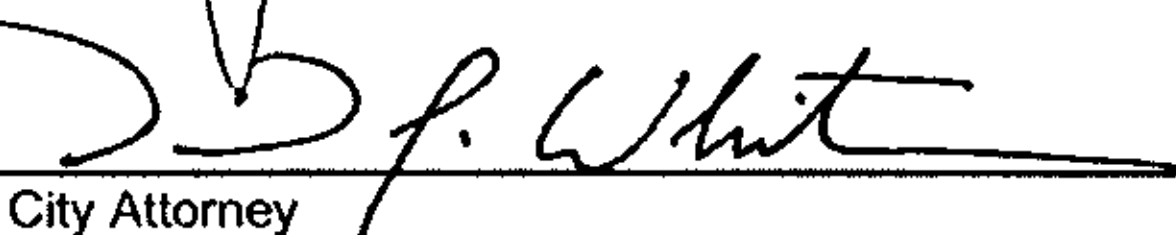
Farmington Sewer Rehabilitation
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item ☒

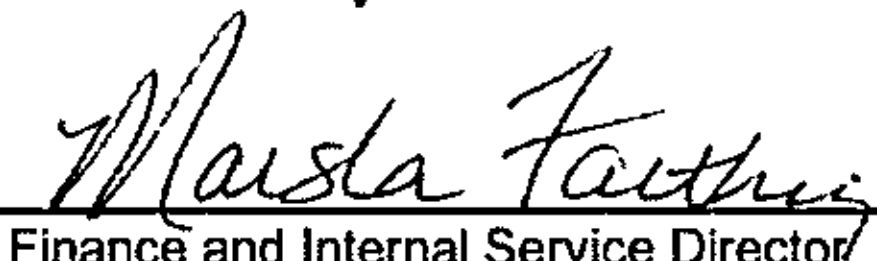
Budget Adjustment Attached ☐


Department Director 19 MAY 06
Date

Previous Ordinance or Resolution # 91-04
169-04
Original Contract Date: 11/1/04
6/15/04


City Attorney 5/22/2006
Date

Original Contract Number: 961


Finance and Internal Service Director 5/23/06
Date

Received in City Clerk's Office
ENTERED
5/19/06


Mayor 5/23/06
Date

Received in Mayor's Office
ENTERED
5/22/06

Comments:

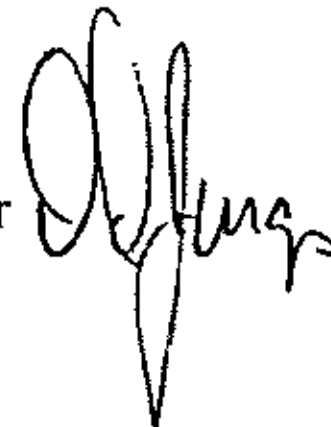
City Council Meeting of June 6, 2006

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: May 22, 2006

Subject: Approval of a contract amendment with the RJN Group, for engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington sewer basin, as required by the Farmington - Fayetteville Arbitration Agreement dated 22 October, 2004, in the amount of \$124,105.00, and approve a 5% contingency of \$6,200.00. Funds are available in Fiscal Year 2006 project budget.

RECOMMENDATION

Fayetteville City Administration recommends approval of a contract amendment with the RJN Group, for engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington sewer basin, as required by the Farmington - Fayetteville Arbitration Agreement dated 22 October, 2004, in the amount of \$124,105.00, and approve a 5% contingency of \$6,200.00. Funds are available in Fiscal Year 2006 project budget.

BACKGROUND

The project entails design and construction inspection for an estimated 9,967' of 6" - 10" gravity sewer main, in the Farmington sewer basin.

SUMMARY OF REPAIRS			
Item	No. of Segments	Total Length (lf)	Estimated Construction Cost (\$)
Point Repairs	66	NA	303,500
CIPP Lining	22	5,548	221,920 ^{1/}
Complete Reconstruction	17	3,719	464,875
Total	105	9,267	990,295

^{1/} Does not include cost of service lateral re-instatement by City of Fayetteville forces.

DISCUSSION

This is the contract that was identified, but for which the scope of work could not be clearly defined, in the initial contract for Farmington rehabilitation. That contract, approved 1 November, 2004, states "The City of Fayetteville and RJN Group, Inc. recognize that the Scope of Services and anticipated fee may need to be modified as the project progresses and the required work items are more fully defined and information on the system is compiled." All field work and review of television tapes is now complete; the full scope of work is identified. Final design may dictate some changes to the work breakdown and methods shown above; these changes are not expected to be major.

BUDGET IMPACT

Funds are available for this Engineering contract in the Fiscal Year 2006 budget. This contract will be funded by system revenues.

Based on the initial scope and breakout of work shown above, funding for the engineering and construction, based on the terms of the Arbitration Agreement, is broken down as follows:

COST BREAKDOWN			
Item	Fayetteville Estimated Cost (\$)	Farmington Estimated Cost (\$)	Total Estimated Cost (\$)
Engineering	130,305	0	130,305
Point Repairs	303,500	0	303,500
CIPP Lining	100,000	121,920	221,920
Complete Reconstruction	0	464,875	464,875
Total	\$533,805	\$586,795	\$1,120,600*

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT #2 TO THE JUNE 15, 2004 AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH RJN GROUP, INC. IN THE AMOUNT OF \$124,105.00 TO PROVIDE ENGINEERING DESIGN AND CONSTRUCTION PHASED SERVICES INCLUDING INSPECTION FOR SANITARY SEWER REHABILITATION IN THE FARMINGTON SEWER BASIN; AND APPROVING A FIVE PERCENT (5%) CONTINGENCY IN THE AMOUNT OF \$6,200.00.

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 Contract Amendment #2 to the June 15, 2004 Agreement for Professional Engineering Services with RJN Group, Inc. in the amount of \$124,105.00 to provide engineering design and construction phased services including inspection for sanitary sewer rehabilitation in the Farmington Sewer Basin. A copy of Amendment #2, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a five percent (5%) contingency in the amount of \$6,200.00.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk



Excellence through Ownership

April 21, 2006

Mr. David Jurgens, P.E.
Water and Wastewater Director
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Subject: Farmington Sanitary Sewer Rehabilitation

Dear Mr. Jurgens:

Enclosed please find a requested amendment for the above referenced project. The amendment is requested to provide additional design services and resident engineering services during construction. As stated in the November 1, 2004 agreement "The City of Fayetteville and RJN Group, Inc. recognize that the Scope of Services and anticipated fee may need to be modified as the project progresses and the required work items are more fully defined and information on the system is compiled." All field work and review of CCTV tapes is now completed and the full extent of rehabilitation design has been identified.

It is estimated that the total cost to complete the design is \$54,400 and the construction resident engineering services is estimated at \$70,105. Therefore, the total requested amendment amount is \$124,105.

If you should have any questions or require additional information, please call me.

RJN GROUP, INC.

Hugh M. Kelso
Vice President

HMK/kb/1959-01

**AMENDMENT NO. 2
TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
BETWEEN
CITY OF FAYETTEVILLE, ARKANSAS
AND
RJN GROUP, INC., DALLAS, TEXAS**

WHEREAS, On June 15, 2004 the City of Fayetteville, Arkansas (**CITY OF FAYETTEVILLE**) and RJN Group, Inc., of Dallas, Texas (**RJN GROUP, INC.**) entered into an agreement for engineering services in connection with the planning, design, permitting, construction, operation, maintenance, management and financing of the Fayetteville Wastewater System Improvement Project, and in particular the Collection System Improvements related to the United States Environmental Protection Agency (USEPA) State and Tribal Assistance Grant Program (**PROJECT**), and

WHEREAS, **RJN GROUP, INC.** has proceeded with these services in accordance with the scope set forth in the agreement, and

WHEREAS, **CITY OF FAYETTEVILLE** requests that the scope of **RJN GROUP, INC.**'s services be amended and increased to include additional design and construction resident engineering services for the Farmington Sewer Rehabilitation Project (**FARMINGTON PROJECT**), the basic nature, extent and schedule for the services being detailed in Attachment Number 1, which forms a part of this amendment; and

WHEREAS, **RJN GROUP, INC.** agrees to provide the amended scope of services for the **FARMINGTON PROJECT** on a cost plus fixed fee basis with an upper limit of costs of one hundred twenty-four thousand, one hundred five dollars (\$124,105.00);

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, **CITY OF FAYETTEVILLE** and **RJN GROUP, INC.**, the parties hereto, stipulate and agree that the Agreement for Engineering Services dated June 15, 2004, is hereby amended in the following particulars:

SECTION 6-PAYMENTS TO ENGINEER is amended to read as follows:

For the scope of services set forth in the original **PROJECT** agreement for \$226,978.00, plus the services set forth for the **FARMINGTON PROJECT** in Amendment No. 1 for \$175,000.00, and additional services contained in this Amendment No. 2 for \$124,105.00, **CITY OF FAYETTEVILLE** shall authorize **RJN GROUP, INC.** to provide the stipulated scope of services for a

not-to-exceed maximum fee of **FIVE HUNDRED TWENTY-SIX THOUSAND, EIGHTY-THREE UNITED STATES DOLLARS (US \$526,083.00).**

For purposes of progress payments and accounting, **RJN GROUP, INC.** shall maintain separate accounting and billing for the original services of the **PROJECT** and for the amended scope of services for the **FARMINGTON PROJECT.**

All other provisions of the original agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed this _____ day of _____, 2006.

CITY OF FAYETTEVILLE ARKANSAS

RJN GROUP, INC.

By: _____
Dan Coody
Mayor

By: Hugh M. Kelso
Hugh M. Kelso
Vice President

ATTEST:

ATTEST:

Sondra Smith
City Clerk

[Signature]

ATTACHMENT NO. 1
EXPANDED SCOPE OF SERVICES
Amendment No. 2 to Agreement Dated June 15, 2004
AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN CITY OF FAYETTEVILLE,
ARKANSAS AND RJN GROUP, INC.

**SEWER SYSTEM STUDY OF THE
CITY OF FARMINGTON WASTEWATER COLLECTION SYSTEM**

The City of Fayetteville and the City of Farmington have entered into an Agreement to complete specific sanitary sewer maintenance activities in the City of Farmington. The specifics of the activities are set forth in the approved Settlement Agreement between Farmington and Fayetteville. The City of Fayetteville retains RJN Group to provide engineering services for the evaluation, planning, design, bidding and construction assistance of applicable sanitary sewer maintenance and rehabilitation activities in the Farmington sewer system, hereinafter referred to as the Project. The extent of the Project includes the City of Farmington's System containing approximately 121,000 linear feet of sewer and 540 manholes. Improvements to the Town Branch Interceptor Sewer will be limited in scope to plans for future upgrading/replacement. A study of the collection system was completed in 2002 by Severn Trent and included manhole inspection, smoke testing, and television inspection activities. The report for the study included recommendations for repair of various manhole and sewer line defects identified during the investigation.

Work completed to date on the project includes the following:

- Review of Severn Trent (ST) Report
- Review of all ST inspection forms and computer printouts.
- Review of all ST CCTV tapes
- Inspection of all manholes
- Smoke testing of selected portions of the system
- Flow monitoring
- Preparation of construction documents for Manhole Rehabilitation
- Bidding and construction assistance for Manhole Rehabilitation
- Development of rehabilitation requirements for sewer mains
- Partial preparation of plans and specifications for sewer main rehabilitation

Amendment 2 services will include completion of the plans and specifications as defined in Amendment No. 1 Scope of Services and Resident Engineering Services as defined in the following section.

RESIDENT ENGINEERING

RJN GROUP, INC. will provide resident engineering services which will include the following:

A. Resident Engineering

1. Provide the successful bidder(s) with three (3) sets of the contract specifications for execution and the insertion of the required insurance certificates. Provide the successful bidder(s) with five (5) sets of the contract documents for construction purposes.
2. Assist the CITY in conducting a pre-construction conference with the Contractors by notifying utilities, governmental agencies, and other interested parties, and answer questions at the conference.
3. Review shop drawings, scheduling, test results, and other submittals which the Contractor is required to submit.
4. Consult with CITY and act as the CITY's engineering representative in dealings with the Contractor. Issue instructions of CITY to Contractor and issue necessary interpretations and clarification of the contract specifications.
5. Provide engineering survey(s) for construction to establish horizontal and vertical reference points which are necessary for the Contractor to construct the work. Coordinate the taking of preconstruction photos and surface video taping with the Contractor as necessary.
6. Provide resident observation for rehabilitation and sewer replacement construction for general conformance to the contract drawings and contract specifications. Also provide resident observation of acceptance testing and restoration work by the Contractor.
7. Review and respond to complaints received by CITY and report any differences of opinion between the Contractor, ENGINEER and complaining party.
8. Review applications for partial payment with the Contractor for compliance with contract specifications and submit to the CITY a recommendation for payment.
9. Issue field orders to Contractor after consultation with the CITY. Review any change orders proposed by the Contractor and provide recommendations to the CITY.
10. Conduct an on-site review to determine if the projects are substantially complete and submit to the Contractor a list of observed items requiring completion or correction.

11. Conduct a final on-site review, in the company of the CITY and Contractor, to verify the projects are fully complete. Submit a recommendation for final acceptance of the projects to the CITY.
12. Provide the CITY with three (3) sets of black line prints of the record drawings.
13. RJN will not be responsible for the means or sequences of the construction work or the implementation program for safety of the construction contractor and subcontractors and it will be stipulated as such in the contract documents.

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

6/6/2006

City Council Meeting Date

Susan Thomas

Submitted By

Public Information

Division

General Government

Department

Action Required:

A resolution recognizing the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond USARC, Fayetteville, Arkansas, including outreach to homeless providers and other interested parties.

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

5/19/2006

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED

6/19/06

Received in Mayor's Office

ENTERED

5/22/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 9
Recognition of Local Redevelopment Authority
Page 2 of 6

City Council Memo

TO: City Council and Mayor

FROM: Susan B. Thomas, Public information & Policy Advisor 

DATE: May 19, 2006

SUBJECT: Leroy R. Pond USARC Closure

The Pond U.S. Army Reserve Center was identified as surplus property by the 2005 Base Realignment and Closure Commission. Surplus property may be made available for conveyance to State and Local governments and other eligible entities for public benefit purposes. Since all of the property is located within the city limits, the City of Fayetteville was identified as the proper authority to institute the Local Redevelopment Authority and prepare a redevelopment plan for the property. The property is located at 1616 N. Woolsey (behind the VA) and includes 3 buildings with a total of 26,201 square feet. The structures were built in 1959 and sit on 3.5 acres.

Because this does not qualify as a major closure, membership on the LRA has been limited to three individuals: Ray Boudreaux, Steve Rust and myself. As a committee we will be responsible for public outreach required by Federal regulations. All interested parties will be required to file a formal Notice of Interest with the LRA as spelled out in 32 CFR Part 176.20(c)(2)(ii). All notices of interest must be received 90 days from the date of the original notice which was May 9, 2006. I have already received informal indications of interest from the VA and the Northwest Arkansas Housing Coalition.

While the LRA is working on local outreach (6-12 months) and planning the redevelopment of the property (9-21 months), the Federal Government will be working through the National Environmental Protection Act requirements dealing with Environmental Characterization and Remediation where necessary. After LRA outreach and NEPA process, the LRA will submit the Redevelopment Plan and a Homeless Submission to HUD and Department of Defense (DoD). Pending approval by both agencies, the City can implement its plan. DoD will make Property disposal decisions by August 2008.

For additional information you can view the Office of Economic Adjustment website at www.oea.gov and the primary DoD BRAC 2005 website at www.defenselink.mil/brac.

RESOLUTION NO. _____

A RESOLUTION RECOGNIZING THE LOCAL REDEVELOPMENT AUTHORITY (LRA) FOR PLANNING THE REDEVELOPMENT OF LEROY R. POND U.S. ARMY RESERVE CENTER (USARC), INCLUDING OUTREACH TO HOMELESS PROVIDERS AND OTHER INTERESTED PARTIES.

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 recognizes the Local Redevelopment Authority (LRA) for planning the redevelopment of Leroy R. Pond U.S. Army Reserve Center (USARC), including outreach to homeless providers and other interested parties.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

MAY 1 2006

RECEIVED

MAY 08 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Honorable Dan Coody
Mayor of Fayetteville
Fayetteville, AR 72701

Dear Mayor Coody:

This is in response to your letter requesting that the City of Fayetteville be recognized as the Local Redevelopment Authority for planning the redevelopment of Leroy R. Pond USARC, Fayetteville, Arkansas, including outreach to homeless providers and other interested parties. On behalf of the Secretary of Defense, the request is approved. The following information will be published in the Federal Register and a newspaper of general circulation in the local area.

Point of Contact: Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville

Address: 113 W. Mountain
Fayetteville, AR 72701

Phone: (479) 575-8330

Questions pertaining to this recognition or requests for assistance to guide your organizational and planning activity may be directed to Lynn Boese, your Office of Economic Adjustment Project Manager, at (703) 604-5134.

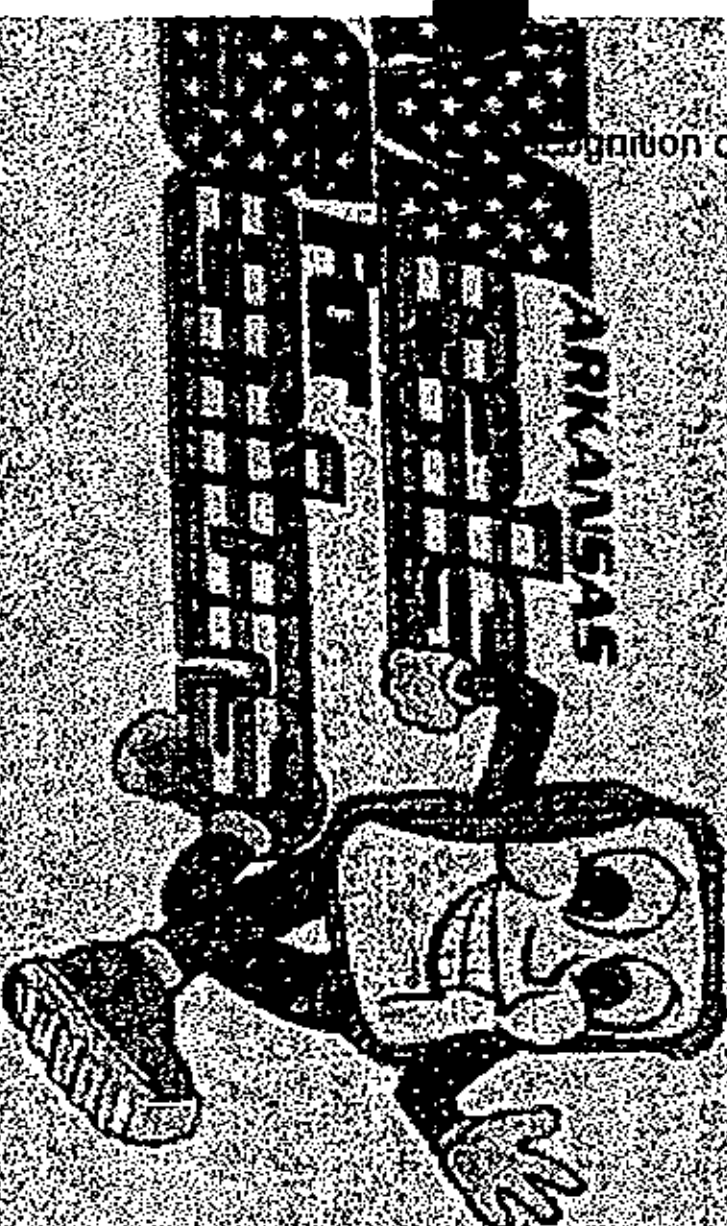
Sincerely,

Patrick J. O'Brien
Director
Office of Economic Adjustment

cc:
DASA (I&H)
DAS HUD (Special Needs Programs)



in conjunction with things we support. Things that should be things that bring people from out of town," Gazzola said. "That's what this (hotel, motel, restaurant) tax is for to put people in hotels and motels, to put people in our restaurants."



WE NEED YOUR HELP!

Fayetteville Meals on Wheels is in need of volunteer drivers for our Meals on Wheels routes for homebound seniors in the Fayetteville area. If you have an hour or so give each week call us! We start delivering meals around 10:30 each day. Help to see our seniors get a hot meal and a smile each day.

For More Information, Call Sara Samplawski at 479-571-2920 between 8 & 4 or e-mail svsamplawski@yahoo.com

WWW.FAYETTEVILLENWS.COM

establishing the foundation opportunity to work with the non-profit organizations. We have experienced the board of directors to grow. All contributions to the Fayetteville Community Foundation. Robin leaves a great legacy that we hope to carry on for many years to come, said Brink. The Fayetteville Community Foundation will establish a fund, contact Brink will be an effective leader.

BASE REALIGNMENT AND CLOSURE NOTIFICATION OF SURPLUS PROPERTY

The following listed property is surplus to the needs of the United States based upon the approved recommendations of the Base Closure and Realignment Commission and completion of screening with Federal and Department of Defense components. Surplus property may be available for conveyance to State and local governments and other eligible entities for public benefit purposes. Notices of interest from representatives of the homeless shall include the information required by 32 CFR Part 176.20(c)(2)(ii). Notices of interest must be submitted to the Army point of contact listed below within 90 days from the date of this notice. Notices of interest received by the Army will be forwarded to the Local Redevelopment Authority listed below. The point of contact for the Army is:

Commander 90th Regional Readiness Command
ATTN: Base Transition Coordinator
8000 Camp Robinson Road • North Little Rock, AR 72118
Telephone: 501-771-8788

FACILITY TITLE	ADDRESS	CITY	ACRES	SQ FT.	# BUDGS	YR BUILT
LERROY R. POND	1616 N. WOOLSEY STREET	FAYETTEVILLE	3.5	26201	3	1959

The entity responsible for preparing the redevelopment plans for the property made surplus by the realignment and closure is:

Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain • Fayetteville, AR 72701
Telephone: 479-575-8330

MAY 9, 2006

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

6-Jun-06
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

Resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road.

N/A	N/A	N/A
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	N/A
	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 5/18/06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

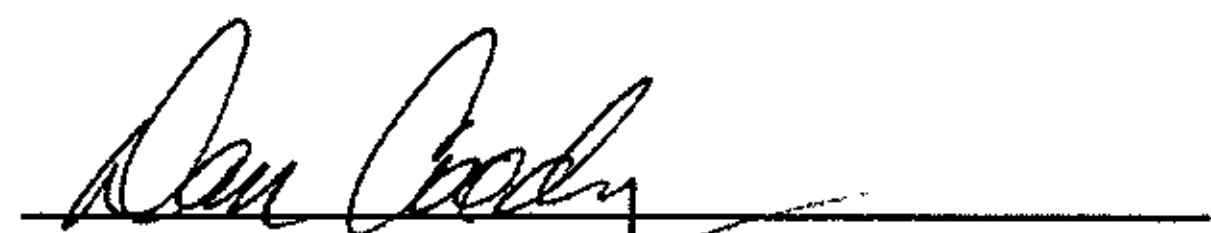
Original Contract Number: _____


City Attorney 5/22/06
Date

Received in City Clerk's Office
ENTERED
5/18/06


Finance and Internal Service Director 5/23/06
Date

Received in Mayor's Office
ENTERED
5/23/06


Mayor 5/23/06
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RSP*

Date: May 18, 2006

Subject: Resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road.

RECOMMENDATION

Staff recommends approval of a resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road.

BACKGROUND

The proposed Transportation Improvement Plan contains several street widening projects that are state highways within the City limits. In an effort to reduce the City's costs for these projects, the City Administration has contacted the Arkansas State Highway & Transportation Department and has been successful in establishing partnerships for several of these projects.

CURRENT STATUS

The Arkansas State Highway & Transportation Department (AHTD) is in the process of developing the Statewide Transportation Improvement Program (STIP) for the fiscal years 2007 through 2010. The AHTD has proposed a 50 percent cost share up to \$5 million for the widening of Highway 16 from Highway 71B to Stone Bridge Road. This portion of Highway 16 is currently listed in the City Transportation Improvement Plan as two projects: 1.) Huntsville Road from Stone Bridge to Happy Hollow and 2.) 15th Street from Happy Hollow to S. College.

At this time, the AHTD has requested that the City "provide a resolution referring specifically to the proposed project and to the level of funding committed to the project."

BUDGET IMPACT

There is no cost associated with this request at this time. However, in the future, the city will be obligated to pay 50% of the project costs up to \$5,000,000 in order to utilize the state funds. These matching funds are currently being planned to be paid with the proposed Transportation Improvement Bond Issue. If this bond issue does not proceed or is not successful in an election, an alternate source for this funding will need to be identified or the project cancelled.

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO PARTICIPATE IN PARTIAL FUNDING OF THE PROPOSED WIDENING OF HIGHWAY 16 FROM HIGHWAY 71B EAST TO STONE BRIDGE ROAD.

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 willingness to participate in the partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby expresses its willingness to pay 50% of the construction cost for this project up to a maximum of \$5,000,000.00, including all costs associated with construction, right-of-way acquisition, utility adjustments and construction engineering.

PASSED and APPROVED this 6th day of June, 2006

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

ARKANSAS STATE HIGHWAY COMMISSION

A. 10
AHTD Widening of Hwy 16/Hwy 71 B
East Cost-Share
Page 5 of 6

MARY P. "PRISSY" HICKERSON
CHAIRMAN
TEXARKANA

JONATHAN BARNETT
VICE CHAIRMAN
SILOAM SPRINGS

CARL S. ROSENBAUM
LITTLE ROCK



RECEIVED

APR 27 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

MADISON MURPHY
EL DORADO

JOHN ED REGENOLD
ARMOREL

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM

April 24, 2006

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

Dear Mayor Coody:

Reference is made to recent conversations between Mr. Gary Dumas and Frank Vozel concerning the City's willingness to participate in partial funding of the proposed widening of Highway 16 from Highway 71B east to Stone Bridge Road (see enclosed sketch).

As you are aware, we are currently in the process of developing our Statewide Transportation Improvement Program (STIP) for years 2007 through 2010. Because of your willingness to partner, this project is being considered for 2009 at an estimated cost of \$10.0 million.

It is our understanding that the City is willing to pay 50 percent of the cost of this project, up to \$5.0 million. The cost would include construction, right-of-way acquisition, utility adjustments and construction engineering. It is requested that the City provide a Resolution referring specifically to the proposed project and to the level of funding committed to the project. The City's Resolution and your letter will serve as Fayetteville's commitment to this project.

Thank you for your support of Arkansas' transportation system. We look forward to working with you on this project. If you have any questions, please let me know.

Sincerely,

Dan Flowers
Director of Highways
and Transportation

Enclosure

c: Commissioner Jonathan Barnett
Chief Engineer
Assistant to the Director
Assistant Chief Engineer - Planning
Programs and Contracts
Planning and Research
District 4 Engineer
Mr. Gary Dumas

WASHINGTON CO.

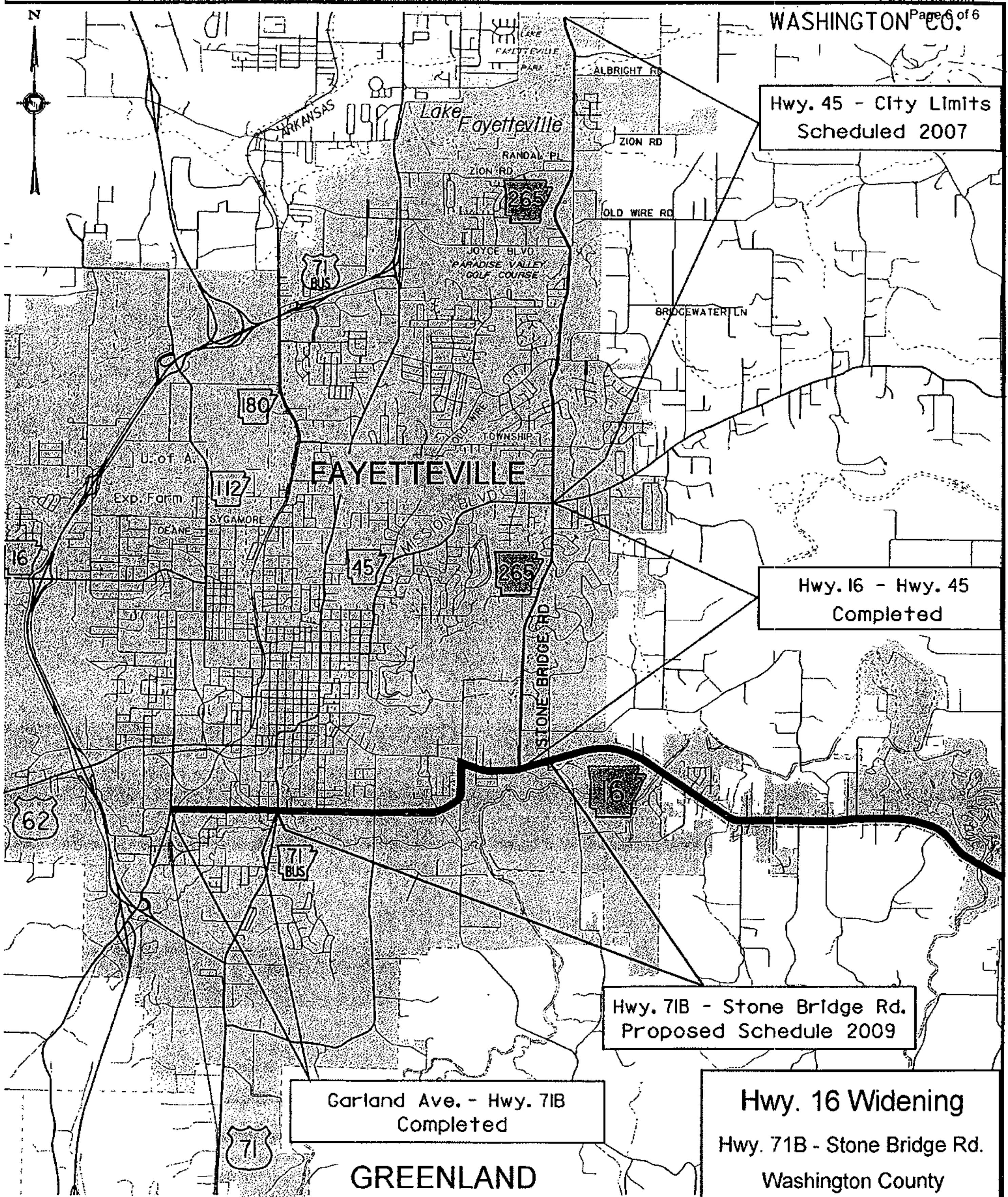
Hwy. 45 - City Limits
Scheduled 2007

Hwy. 16 - Hwy. 45
Completed

Hwy. 71B - Stone Bridge Rd.
Proposed Schedule 2009

Garland Ave. - Hwy. 71B
Completed

Hwy. 16 Widening
Hwy. 71B - Stone Bridge Rd.
Washington County



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

6-Jun-06
City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

Resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 180 (Garland Avenue) from Wedington Drive north to Melmar Street.

N/A

Cost of this request

N/A

N/A

Category/Project Budget

N/A

Funds Used to Date

N/A

Remaining Balance

N/A

Program Category / Project Name

N/A

Program / Project Category Name

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

5-18-06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

5/22/06
Date

Received in City Clerk's Office

ENTERED
5/18/06


Finance and Internal Service Director

5/23/06
Date

Received in Mayor's Office

ENTERED
5/22/06
PA.


Mayor

5/23/06
Date

Comments:

--

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RSP*

Date: May 18, 2006

Subject: Resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 180 (Garland Avenue) from Wedington Drive to Melmar Street.

RECOMMENDATION

Staff recommends approval of a resolution expressing the willingness of the City of Fayetteville to participate in partial funding of the proposed widening of Highway 180 (Garland Avenue) from Wedington Drive to Melmar Street.

BACKGROUND

The proposed Transportation Improvement Plan contains several street widening projects that are state highways within the City limits. In an effort to reduce the City's costs for these projects, the City Administration has contacted the Arkansas State Highway & Transportation Department and has been successful in establishing partnerships for several of these projects.

CURRENT STATUS

The Arkansas State Highway & Transportation Department (AHTD) is in the process of developing the Statewide Transportation Improvement Program (STIP) for the fiscal years 2007 through 2010. The AHTD has proposed a 50 percent cost share up to \$1.5 million for the widening of Highway 180 from Wedington Drive to Melmar Street. This portion of Highway 180 is currently listed in the City Transportation Improvement Plan.

At this time, the AHTD has requested that the City "provide a resolution referring specifically to the proposed project and to the level of funding committed to the project."

BUDGET IMPACT

There is no cost associated with this request at this time. However, in the future, the city will be obligated to pay 50% of the project costs up to \$1,500,000 in order to utilize the state funds. These matching funds are currently being planned to be paid with the proposed Transportation Improvement Bond Issue. If this bond issue does not proceed or is not successful in an election, an alternate source for this funding will need to be identified or the project cancelled.

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO PARTICIPATE IN PARTIAL FUNDING OF THE PROPOSED WIDENING OF HIGHWAY 112 FROM HIGHWAY 112 SPUR NORTH.

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 willingness to participate in the partial funding of the proposed widening of Highway 112 from Highway 112 Spur north (Wedington Drive to Melmar Street).

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby expresses its willingness to pay 50% of the construction cost for this project up to a maximum of \$1,500,000.00, and 100% of costs associated with right-of-way acquisition and utility adjustments .

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

ARKANSAS STATE HIGHWAY COMMISSION



MARY P. "PRISSY" HICKERSON
CHAIRMAN
TEXARKANA

JONATHAN BARNETT
VICE CHAIRMAN
SILOAM SPRINGS

CARL S. ROSENBAUM
LITTLE ROCK

R. MADISON MURPHY
EL DORADO

JOHN ED REGENOLD
ARMOREL

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM

April 27, 2006

RECEIVED

MAY 01 2006

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

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

Dear Mayor Coody:

Reference is made to recent conversations between Mr. Gary Dumas and Frank Vozel concerning the City's willingness to participate in partial funding of the proposed widening of Highway 112 from Highway 112 Spur north.

As you are aware, we are currently in the process of developing our Statewide Transportation Improvement Program (STIP) for years 2007 through 2010. Because of your willingness to partner, this project is being considered for 2009 at an estimated construction cost of \$3.0 million.

It is our understanding that the City is willing to pay 50 percent of the construction cost for this project up to \$1.5 million and for 100 percent of costs associated with right-of-way acquisition and utility adjustments. It is requested that the City provide a Resolution referring specifically to the proposed project and to the level of funding committed to the project. The City's Resolution and your letter will serve as Fayetteville's commitment to this project.

Thank you for your support of Arkansas' transportation system. We look forward to working with you on this project. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Flowers", is written over the word "Sincerely,".

Dan Flowers
Director of Highways
and Transportation

c: Commissioner Jonathan Barnett
Chief Engineer
Assistant to the Director
Assistant Chief Engineer - Planning
Programs and Contracts
Planning and Research
District 4 Engineer
Mr. Gary Dumas

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

A. 12
Wheeler Lumber, LLC
Page 1 of 6

6/6/2006

City Council Meeting Date

Matt Mihalevich

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a Resolution authorizing the award of the manufacture and delivery of the Crown Trail Bridge by Wheeler Lumber, LLC in the amount of \$27,423 including tax.

\$ 27,423.00

Cost of this request

\$ 111,300.00

Category / Project Budget

Trail Development/Town Creek Trail

Program Category / Project Name

4470.9470.5814.05

Account Number

\$ 69,959.19

Funds Used to Date

Cap Improv Const Fund Exp

Program / Project Category Name

02016.7

Project Number

\$ 41,340.81

Remaining Balance

Cap Improvement Const

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:

City Council Meeting of June 6th, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, Director of Engineering *per*

From: Matt Mihalevich, Trails Coordinator

Date: May 16th, 2006

Subject: Crown Trail Bridge Bid approval.

RECOMMENDATION

Approval of a Resolution authorizing the award of the manufacture and delivery of the Crown Trail Bridge by Wheeler Lumber, LLC in the amount of \$27,423 including tax.

BACKGROUND

Construction of a 12' wide multi-use trail along Town Branch Creek by Crowne Partners was one of the requirements for approval of Crowne Apartments as decided by Resolution No. 63-02. In addition to the trail construction, dedication of 6.65 acres of park land was also provided by Crowne Partners as required by the Park Land Dedication Ordinance. The remaining park land dedication requirement was provided as money in lieu to be credited toward the trail construction costs. On December 22, 2005 the developer provided a check in the amount of \$111,300.00 to the City of Fayetteville for the construction of the trail by the in-house trail construction crew. This payment indemnified the developer of their responsibilities for the trail. The \$27,423 cost for the bridge will be deducted from the \$111,300.00 from the developer.

The trail along Town Branch Creek is identified on the Fayetteville Alternative Transportation and Trails Master Plan. The Master Plan shows the trail following Town Branch Creek from I-540 east through Greathouse Park and on to the White River Baseball Complex where it will meet the White River Trail. Connections to Walker Park and Frisco Trail are also planned. This trail is currently under construction from Beechwood Ave. to Razorback Rd.

DISCUSSION

The alignment of the trail requires one crossing of Town Branch Creek with a 50' long prefabricated bridge. This creek crossing was necessary to provide the safest and most economical trail alignment. The bridge will be constructed of weathering steel to match the style of Mud Creek Trail bridge and the Lake Fayetteville Spillway Bridge.

The project was advertised on April 12, 2006 as bid number 06-37 and official bids were received on May 3, 2006.

Three bidders submitted bids and the results are as follows:

1. Bridge America, Inc.	\$30,015.00
2. Steadfast Bridge Company	\$40,014.00
3. Wheeler Lumber, LLC	\$27,423.00
Crafton, Tull & Associates, Inc. Engineers' Estimate	\$51,000.00

RESOLUTION NO. _____

A RESOLUTION APPROVING THE AWARD OF BID #06-37
FOR THE CONSTRUCTION AND DELIVERY OF THE CROWN
TRAIL BRIDGE TO WHEELER LUMBER, LLC IN THE AMOUNT
OF \$27,423.00.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
awards Bid #06-37 to Wheeler Lumber L.L.C. in the amount of \$27,423.00 for the
construction of a 50' prefabricated bridge and its delivery as the Crown Trail Bridge over
Town Branch Creek.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

City Of Fayetteville

(Not a Purchase Order)

Requisition No.: 51172006 Date: 5/17/2006
 P.O. Number: Expected Delivery Date:

Mail Yes: No:
 Taxable Yes: No: Quotes Attached Yes: No:
 Division Head Approval: [Signature]

Extension: 416

Vendor #: New Vendor Vendor Name: Wheeler Lumber, LLC
 Address: City: State: Zip Code: Fob Point: Ship to code: 475
 Requester: Matt Mihalevich Requester's Employee #: 2509

Item	Description	Quantity	Unit of Iss	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Prefabricated Bridge for Crown Trail Bid #06-37	1	EA.	\$25,800.00	\$25,800.00	4470 9470 5814 05	2016.7		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				

Subtotal: \$25,800.00
 Tax: \$1,623.00
 Total: \$27,423.00

Special Instructions:

Approvals:
 Mayor: [Signature] Department Director:
 Finance & Internal Services Director: [Signature] Budget Manager:
 Dispatch Manager: Utilities Manager:
 Purchasing Manager:
 IT Manager:
 Other:

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

6-Jun-06
City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

Approval of a resolution to amend the Master Street Plan to realign Deane Solomon Collector Street to the east and reclassifying the existing Deane Solomon Road to a Local street; also realigning the planned Collector Park West Boulevard south of the current alignment in association with PPL 06-1998, The Heights at Park West.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 5-18-06
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 5-18-06
City Attorney Date

Original Contract Number: n/a

[Signature] 5/19/06
Finance and Internal Service Director Date

Received in City Clerk's Office

ENTERED

5/18/06

[Signature] 5/23/06
Mayor Date

Received in Mayor's Office

ENTERED

5/18/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: May 16, 2006

Subject: The Heights at Park West (PPL 06-1998) Master Street Plan Amendments

RECOMMENDATION

The Fayetteville Street Committee, Planning Commission, and staff recommend approval of the requested Master Street Plan Amendments to Deane Solomon Road and the east-west Collector Street (Park West Blvd), as proposed with the Park West Planned Zoning District Master Development Plan.

BACKGROUND

The City Council recently approved a Master Development Plan for Park West R-PZD, containing approximately 139 acres. The zoning approved will allow for the maximum development of 856,000 square feet commercial space and 1,712 dwelling units. As part of this development, the applicant has proposed the construction of street connections identified on the Master Street Plan; however, the applicant requests modifications to the required streets, as was indicated with the Master Plan for Park West. This action, with final approval by the City Council, would allow the applicant to proceed further with the first phase of the development.

The applicant requests the following:

1. Realign Deane Solomon Road, a Collector Street, to the east approximately 585 feet from its current location to align with a street across Hwy 112 and reclassify the existing Deane Solomon Street to a Local street.
2. Realign an east-west Collector Street (Park West Blvd) as shown on the Master Development Plan for Park West R-PZD. This street will provide a connection between Hwy 112 and Salem Road through the Park West development in a slightly different alignment.

DISCUSSION

On April 17, 2006, the Street Committee voted unanimously in favor of the proposed Master Street Plan Amendment. The preliminary plat for The Heights at Park West was unanimously approved at the May 08, 2006 Planning Commission meeting. The Planning Commission recommended in favor of the proposed Master Street Plan Amendments.

The relocated Deane Solomon Road will result in improved sight distance to the west on Hwy 112 and align with a street intersection to the north within Belclaire Subdivision, resulting in better controlled and safer traffic movements. The proposed realignment of the east-west collector will provide the same function as the current alignment, while allowing the applicant to realize and process future development requests in relationship to the approved Master Plan.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION FOR PPL 06-1998 AMENDING THE MASTER STREET PLAN, REALIGNING DEANE SOLOMON COLLECTOR STREET TO THE EAST AND RECLASSIFYING THE EXISTING DEANE SOLOMON ROAD TO A LOCAL STREET; REALIGNING THE PLANNED COLLECTOR PARK WEST BOULEVARD SOUTH OF THE CURRENT ALIGNMENT AS DESCRIBED AND DEPICTED IN THE ATTACHED MAPS.

WHEREAS, Collector Streets are intended to provide traffic circulation within residential areas, collecting traffic to channel it into the arterial system, and should be indirect connections between arterials to discourage use by traffic outside the neighborhood; and

WHEREAS, the existing alignment of Deane Solomon Road and close proximity to the intersection of Highway 112 and Howard Nickell Road creates a dangerous traffic situation with existing and projected traffic volume; and

WHEREAS, the existing alignment of Park West Boulevard will provide a vehicular connection between Deane Solomon Road and Highway 112; and

WHEREAS, the proposed amendments were presented in concept as Park West R-PZD and met with City Council approval; and

WHEREAS, the City Council finds that the proposed realignment of Deane Solomon Road and the realignment of the Collector Street Park West Boulevard as indicated in the attached maps maintains the integrity of each Collector Street connection while better protecting existing and future neighborhoods and providing a safe means of traffic circulation;

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 amend the Master Street Plan to realign the Collector Deane Solomon Road to the east of its current intersection with Highway 112 as indicated in Exhibit "A", attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amend the Master Street Plan to reclassify that portion of Deane Solomon Road that will remain in place south of Highway 112 to a Local Street, as indicated in Exhibit "B", attached hereto and made a part hereof.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amend the Master Street Plan to realign the east extension of the Collector Street Salem Road (indicated herein as Park West Boulevard) from Deane Solomon Road to Highway 112 as indicated in Exhibit "C", attached hereto and made a part hereof.

PASSED and APPROVED this ____ day of _____, 2006.

APPROVED:

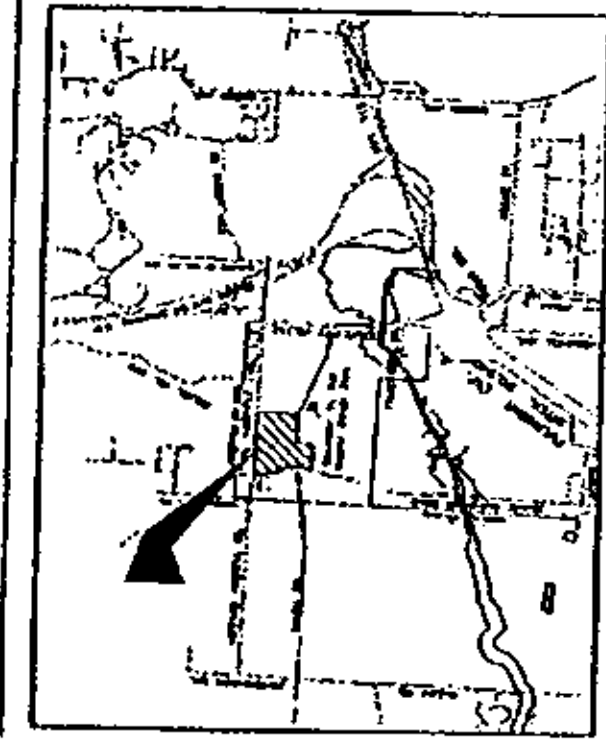
By: _____
DAN COODY, Mayor

ATTEST:

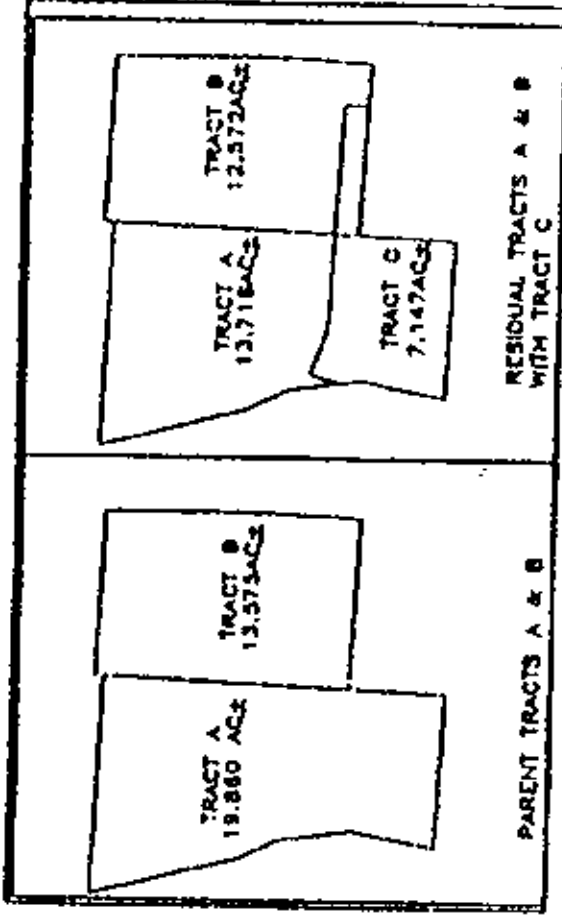
By: _____
SONDRA SMITH, City Clerk

DRAFT

Exhibit A



- LEGEND**
- SET IRON PIN
 - FOUND IRON PIN
 - POWER POLE
 - TELEPHONE PEDESTAL
 - EXT. FIRE HYDRANT
 - EXT. WATER LINE
 - EXT. RIGHT OF WAY
 - DEDICATED RIGHT OF WAY
 - UTILITY EASEMENT
 - BOUNDARY



DESCRIPTION OF REVISED MASTER STREET PLAN
DEANE SOLOMON ROAD

PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 28 TOWNSHIP 17 NORTH (T-17-N) RANGE THIRTY WEST (R-30-W); MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE W1/4 CORNER OF SAID SECTION AND CONTINUING THENCE ALONG THE N. BOUNDARY OF SAID S.W. QUARTER (SW 1/4) S 87-14-29 E 1013.73 FEET;

THENCE LEAVING SAID BOUNDARY S 02-45-31 W 54.37 FEET TO A POINT ON THE S. RIGHT-OF-WAY OF THE MASTER STREET PLAN ARKANSAS STATE HWAY 112 AND THE CENTER LINE OF A PROPOSED 70.00 FOOT RIGHT-OF-WAY FOR A REVISED LOCATION OF THE MASTER STREET PLAN FOR DEANE SOLOMON ROAD, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ALONG SAID CENTER LINE S 02-54-17 W 200.63 FEET, TO THE PC OF A CURVE TO THE RIGHT;

THENCE ALONG SAID CURVE HAVING A RADIUS OF 1000.00 FEET AND DELTA ANGLE OF 17-05-00" AND A LENGTH OF 298.16 FEET WITH A CHORD BEARING S 19-15-12 W 287.06 FEET;

THENCE S 10-24-12 W 65.19 FEET TO A POINT AT THE INTERSECTION OF SALEM ROAD; WASHINGTON COUNTY RD NUMBER 894 WITH SAID DEANE SOLOMON ROAD CENTER LINE AS EXISTING;

THENCE LEAVING SAID CENTER LINE N 87-29-11 W 744.12 FEET TO A POINT ON THE W. BOUNDARY OF SAID SECTION 28;

THENCE ALONG SAID BOUNDARY N 02-30-49 E 1017.59 FEET TO THE POINT OF COMMENCING; CONTAINING FULL WIDTH MASTER STREET PLAN RIGHT-OF-WAY 1010.81 FEET ALONG CENTERLINE; FAYETTEVILLE, ARKANSAS.

EXHIBIT A MASTER STREET PLAN AMENDMENT RELOCATION OF DEAN SOLOMON RD COLLECTOR STREET

 Holland Company		PROFESSIONAL ENGINEERS		TRACY HOSKINS & MIKE PRICE	
205 W. Center Fayetteville, Arkansas Phone: (479) 443-4724 Fax: (479) 443-4707 HCO@hollandco.com		SURVEYING SPECIALISTS		FAYETTEVILLE ARKANSAS	
		DATE: 09-12-03		SCALE: 1"=200'	
		REVISIONS: 09-14-05		DEVELOPER(S):	
		BY: HOSKINS		TRACT HOSKINS	
		DATE: 10-21-05		3508 BUCKINGHAM DRIVE	
				FAYETTEVILLE, AR 72703	
				765-15032-0000	
				765-15032-0000	
				ZONING: RSF-4	
				PLAT BOOK: 200B	
				ACRES: 33.455	
				DRAIN BY: MA	
				BASIS OF BEARINGS:	
				CITY OF FAYETTEVILLE -	
				GPS SYSTEM	
				DRAWING NO.	
				E-2770	

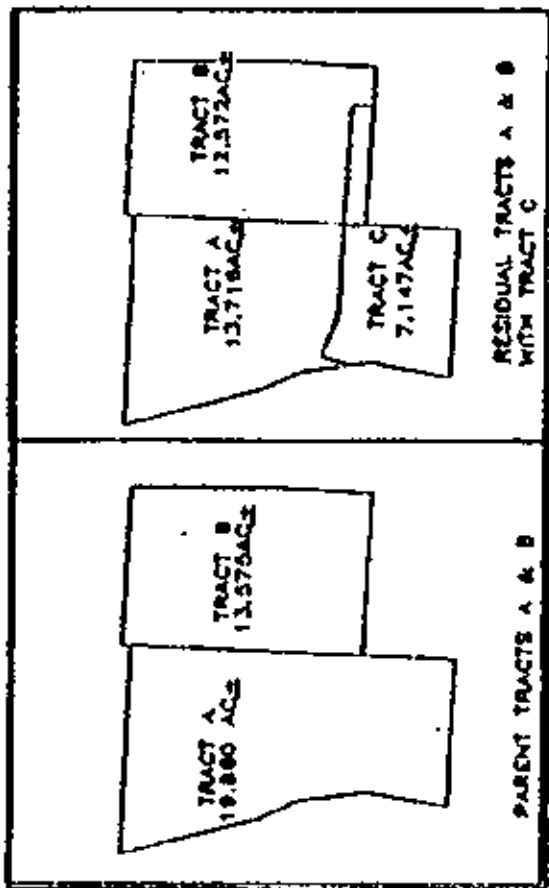
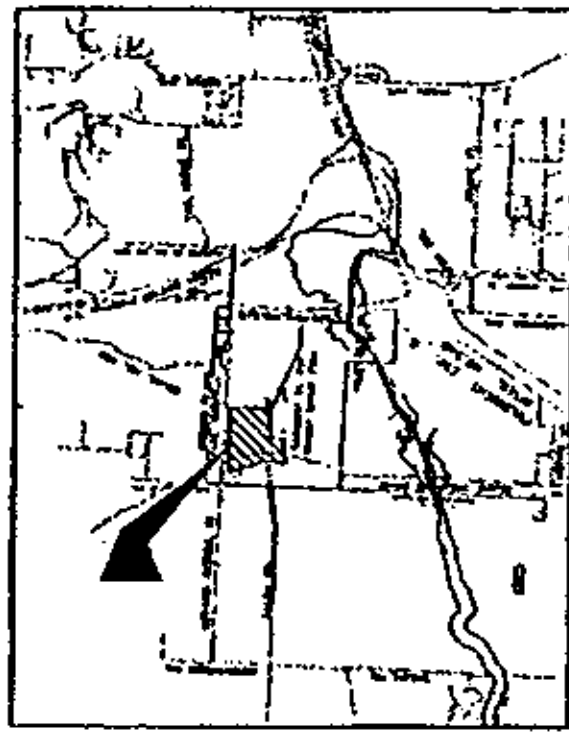
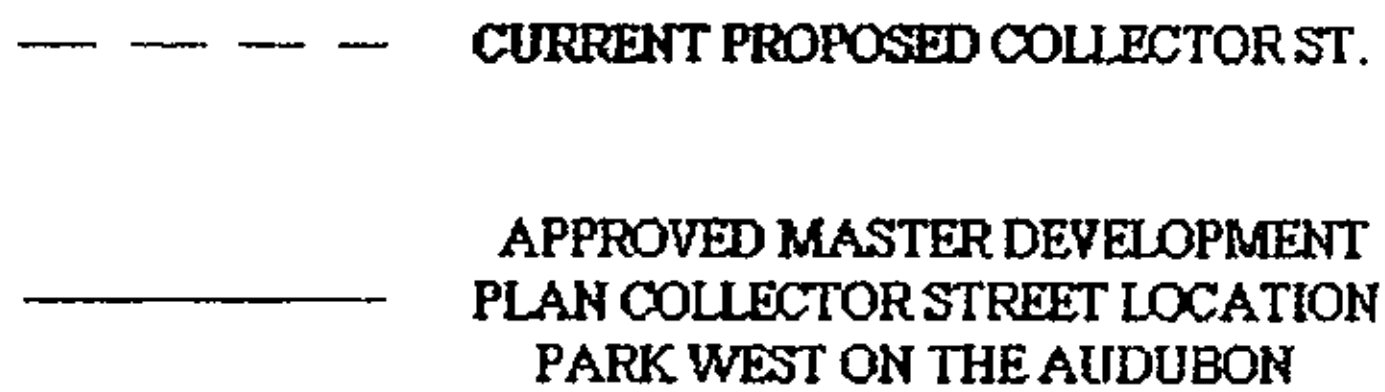


EXHIBIT B
MASTER STREET PLAN AMENDMENT
RECLASSIFICATION OF DEAN SOLOMON RD.
STREET "I", LOCAL STREET

 Miholland & Co	PROFESSIONAL ENGINEERS	PAVETEMILLE DATE: 02-12-03 DEVELOPER(S): TRACY HOSKINS 3588 BUCKINGHAM DRIVE FAYETTEVILLE, AR. 72703 H-HOUSE REVISIONS: 09-14-03 10-31-03	SCALE: 1"=200' PARCEL No. 769-14810-003 769-14812-000 769-14813-000	ARKANSAS
	SURVIVING SPECIALISTS	ZONING: RSE-4 ACRE(S): 33.435 BASIS OF BEARINGS: CITY OF FAYETTEVILLE- DRAWING BY: RA DRAWING No. E-270	PLAT BOOK: 208	

205 W. Center
 Fayetteville, Arkansas
 Phone: (479) 443-4726
 Fax: (479) 443-1707



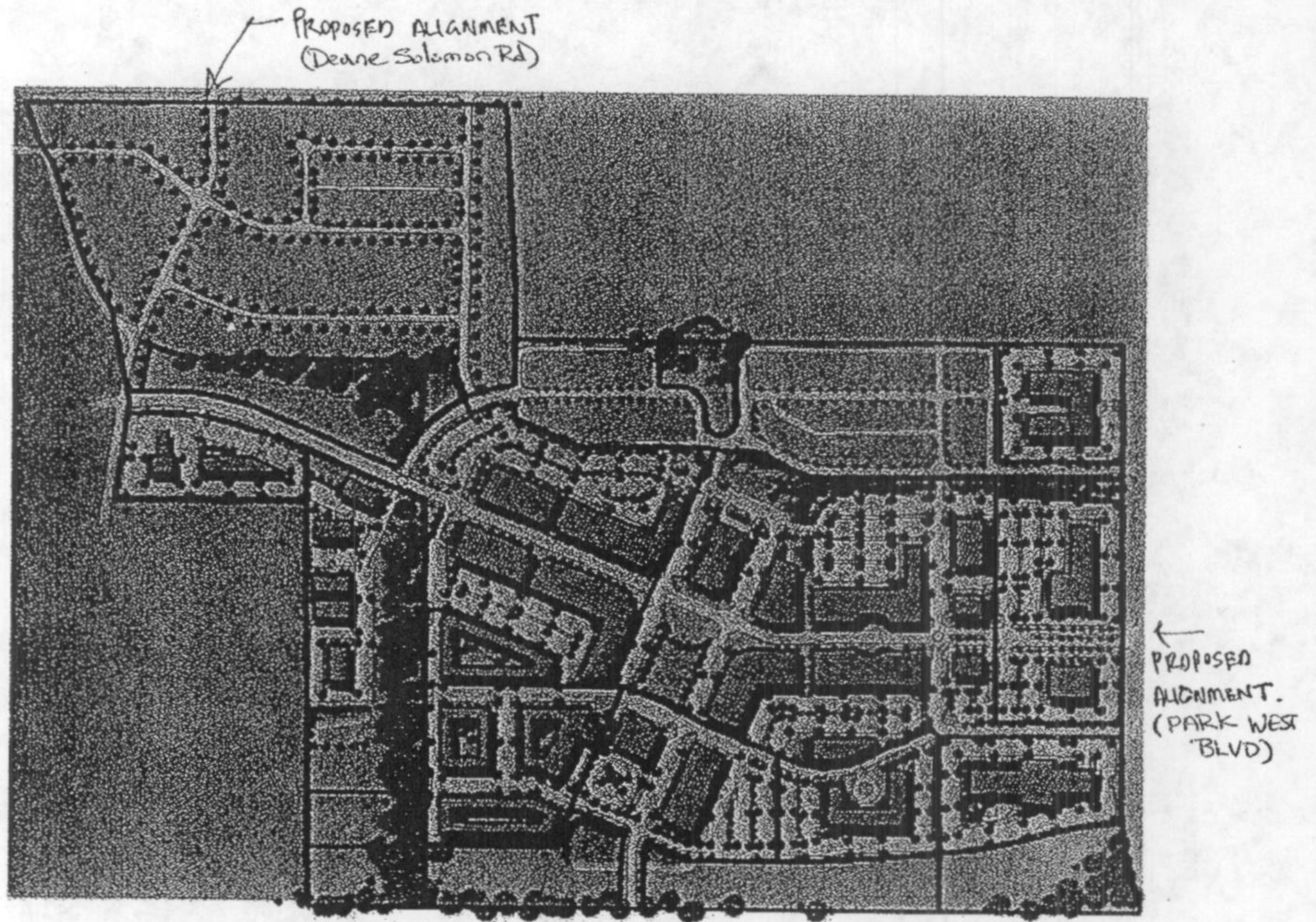
CITY OF FAYETTEVILLE MASTER STREET PLAN

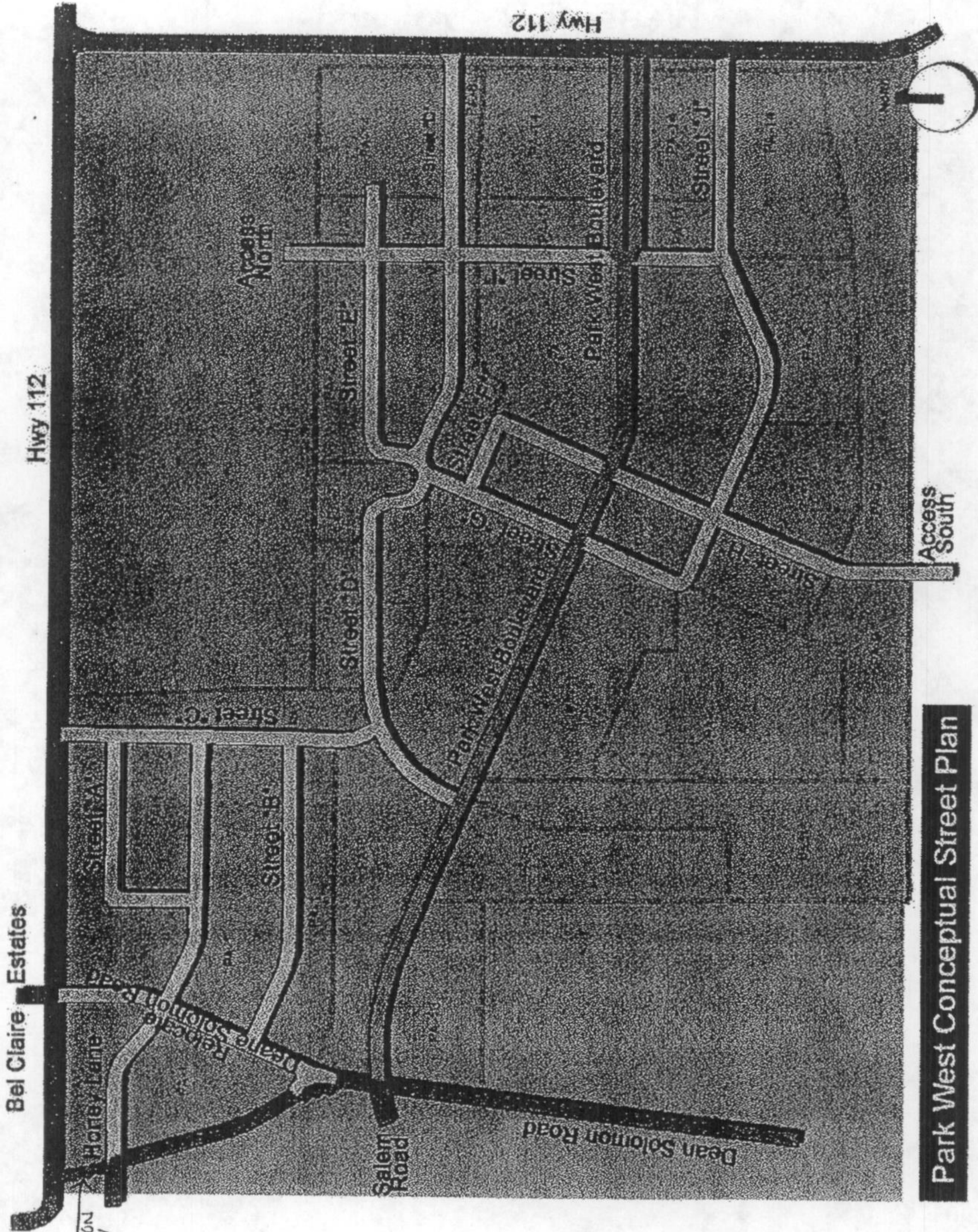


0 50 100 200 300 Feet

N

Park West MDP – All Phases



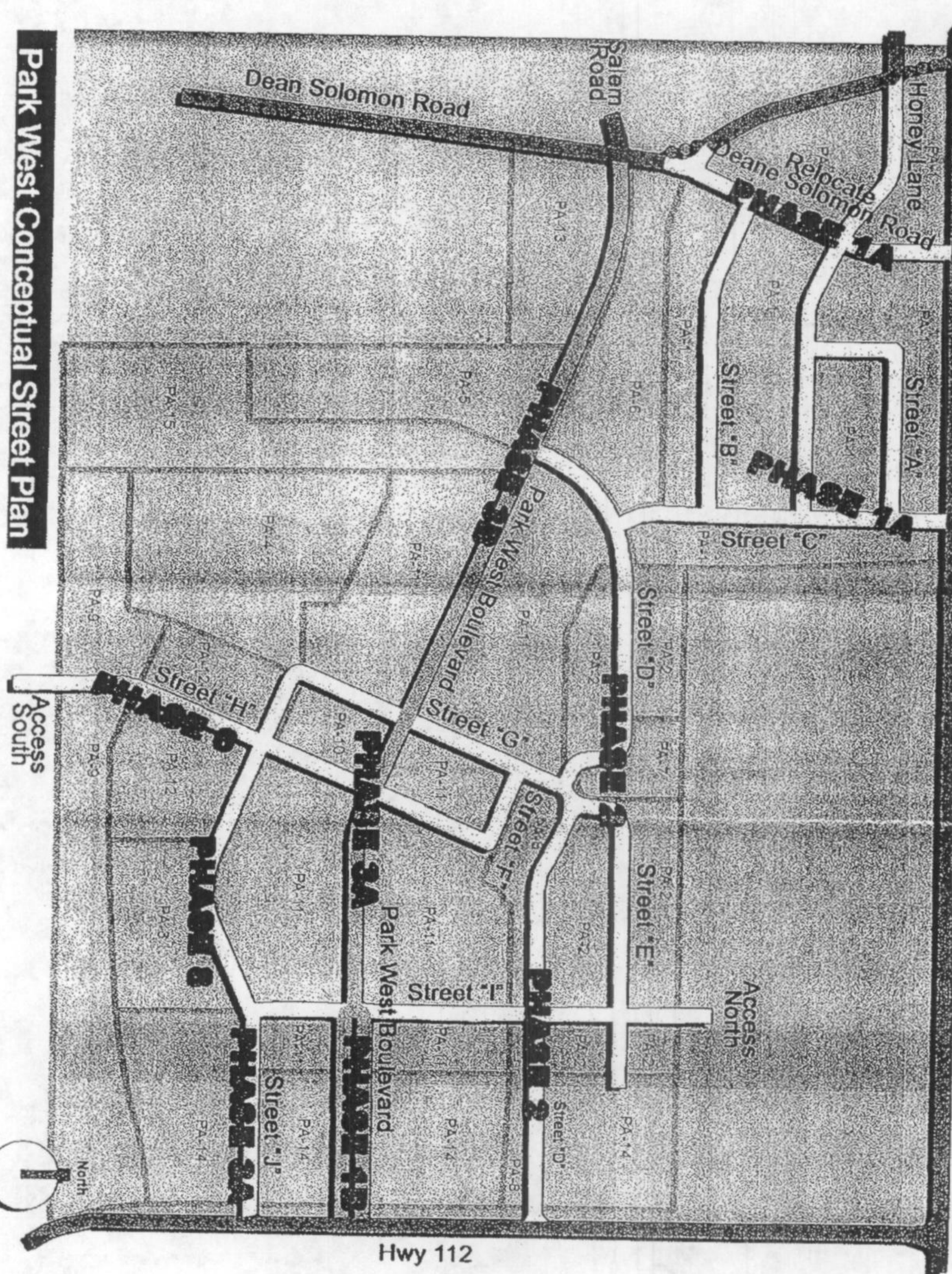


Park West Conceptual Street Plan

EXISTING CONNECTION
TO BE REMOVED/
VACATED

Bel Claire Estates

Hwy 112

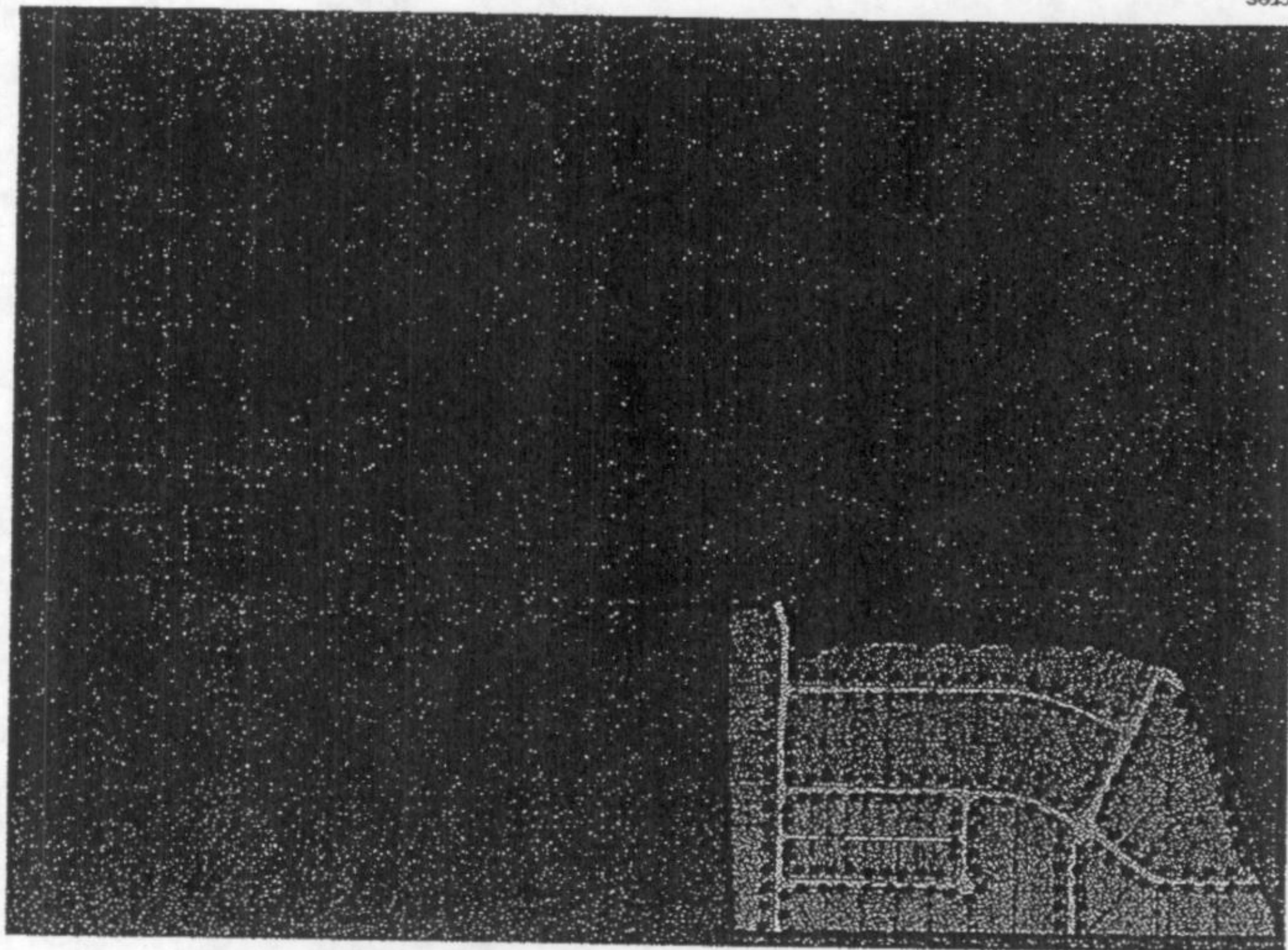


Park West Conceptual Street Plan

Approved Street & Planning Area layout
for Park West PZD



Planned Area 1 (PA-1) - Single Family Residential



Area - 26.05 acres

Development Regulations -

(A) **Purpose** - The Single Family Residential planning area (The Heights at Park West) is designed to permit and encourage the developing of single family homes, attached and detached, in a traditional (as opposed to contemporary) lot line environment. Each home will have a private lot for personal exterior space.

(B) **Uses**

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 24	Home Occupations

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
--------	--

(C) **Density** (max. dwelling units per acre)

Single, Two, and Three-family	4
-------------------------------	---

(D) **Bulk and area regulations**

(1) Lot width minimum. (ft.)

Single family	30
Two-family (per unit)	30
Three-family (per unit)	30

(2) Lot area minimum. (sq. ft.)

Individual lot	2500
Single-family	4000
Two-family (per unit)	2400
Three-family or more (per unit)	2400

Townhouse -

(3) Land area per dwelling unit (sq. ft.)

Townhouses & apartments

No bedroom	1700
One bedroom	1700
Two or more bedrooms	2000

(E) Setback requirements (ft)

	Front	Side	Rear
Single-family	14 *	6	10 **
Two- and Three-family	14 *	0	10 **

* A build-to line (wherever possible).

** The rear building setbacks may range from 10' to 20' depending on the location of utilities.

All structures shall be setback 20' from the centerline of any alley or easement.

(F) Height regulations (stories)

	Attached	Detached
Minimum height	2	2
Maximum height (excluding basements)	3	3

(G) Building area

	Attached	Detached
Maximum area occupied by all buildings	60%	80%

(H) Maximum Dwelling Units - 91

(I) Architectural Standards specific to the Single Family Residential Planning Area; "The Heights at Park West" - Minimum Square Footage: All dwellings shall be a minimum of 1,200 square feet of heated floor space (excluding garage), for single family detached homes; and 1,000 square feet of heated floor space for single family attached homes.

Garages - Each dwelling shall have a garage for a minimum of two (2) cars with dimensions of not less than twenty (20) feet by twenty (20) feet. No carports will be allowed. Garage openings may face a public or private street. However, wherever possible, should be accessed from the side or rear. Where space permits; garages should be detached and located to the rear of the lot, as close to the rear property setback as possible. Under special conditions, this covenant may be modified by the PWAC (Park West Architectural Committee).

Yard Space Restrictions and Building Locations - The most forward point on the front of the house, inclusive of porches, shall be constructed at the property's front building setback line. Under special conditions, this covenant may be modified by the PWAC.

Roofs - All structures must use tile, wood shake, architectural metal or 20-year composition architectural shingles, and must have a minimum of a 4/12 pitch. Any roof less than a 4/12 pitch, and metal roofing must be approved by the PWAC.

Exteriors - The foundations must be constructed of substantial materials such as brick, stone or concrete block veneer with brick or stone. Exteriors of all structures must be at least 80% wood or concrete board siding, brick or stone, or other natural materials. All chimneys are encouraged to be brick, stone, or stucco. No vinyl or metal (excluding gutters, downspouts, roof edging or trim), will be permitted. Exterior Insulation and Finish Systems (EIFS) may be used only with specific prior approval of the PWAC. Though vinyl windows are permitted, the PWAC encourages the use of wood type windows. Finish floor elevation must be a minimum of eighteen inches (18") above finished grade at the front of the structure, exclusive of garages.

Architectural Control - No ranch, contemporary, modern, a-frame, log, or gambrel style structures will be permitted. Park West is considered to be a traditional Americana community with an emphasis on TRADITIONAL AMERICAN STYLING. All floor plans, elevations, specifications, plot plan showing the orientation of any structure, driveway and sidewalks, contractor, and proposed materials and colors must be submitted and approved by Tracy Hoskins representative, Park West Architectural Committee, prior to starting construction. Once construction commences, revisions are discouraged, and must be approved by the PWAC. The PWAC will keep in its file the original plans and specs as reference material. Post certificate of occupancy; any modification of the exterior of the home must be approved by the PWAC, including any color changes.

Yards and Landscaping - All yards shall be fully sodded in front and in back within sixty (60) days of a certificate of occupancy being issued by the City of Fayetteville. All dwellings shall be landscaped with a landscaping package that is appropriate in design and color for the design of the dwelling. Each lot shall have a minimum of one "street tree" located on center between the back of curb and the public sidewalk. The PWAC shall determine the species of all street trees.

Lot Maintenance - All Lots shall be kept in a sanitary and attractive condition, and the Owner or occupant shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material or equipment except for normal residential purposes (except for during construction of residences or other structures.) Construction sites shall be kept neat, safe, and clear of debris at all times. Construction materials should be kept to the rear of the lot, obstructed from view, whenever possible. No burning of garbage, trash, or refuse is allowed (Except for during construction of residences or other structures and with the approval of the Fayetteville Fire Department) Sight Distances at Intersections - No fence, wall, hedge, or shrub which obstructs sight lines at intersections in the subdivision shall be permitted.

Visual Screening - All clotheslines, equipment, garbage cans, woodpiles, refuse containers, storage piles, and household projects such as equipment repair shall be screened by fencing, so as to conceal them from view of neighboring lots or streets. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the Lots and not allowed to accumulate thereon.

Temporary Structures - No trailer, tent, shack, garage, barn, recreational vehicle, mobile home, or other outbuilding shall be placed, constructed, erected or allowed to remain on a Lot if it is being used for human habitation either temporarily or permanently. *This regulation excludes temporary Lemonade Stands.*

Storage Buildings - No detached outbuildings may be constructed without prior written consent of the PWAC. If consent is granted, detached storage buildings may only be placed to the rear of the house, no closer to side lot line than the sides of the house and be a minimum of ten (10) or twenty (20) feet from the rear yard line, where applicable (as per recorded plat), and must be enclosed inside privacy fence. All storage buildings shall use same roof and wall materials as used on the house.

Fencing - Fencing of front yard is prohibited, other than decorative fences or landscape walls, not to exceed forty-two inches above finished grade. Chain link or wire fencing shall be permitted only with prior approval from the PWAC. All wire fencing must be screened by landscaping when visible from any street. All wood privacy fences shall have the good side turned toward the outside of the lot. That is; the framework that supports the fence is to be facing inward toward the back yard. No privacy fencing shall exceed four feet in height. Any fencing, walls, or landscape walls located between the street and structure must be constructed of brick, stone, iron, or wood (picket type); complementary of the structure, and must be approved by the PWAC.

Heating and Cooling Devices - No structure on any Lot shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from the street or adjoining Lots, or adjoining land owners. This restriction does not apply during the construction of the structure.

Mailboxes - Mailboxes will be installed upon each property. The particular design shall be designated by the PWAC.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CA

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

April 3, 2006

Project Number E-770

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Suzanne Morgan, Planning Division

**RE: The Heights at Park West PPL 00-1998
Master Street Plan Amendment Request**

Dear Suzanne:

This correspondence is in request of Amendment to the current Master Street Plan for the planned realignment of Dean Solomon Road through the proposed Heights Subdivision at Park West and for the reclassification of the remaining section of Dean Solomon Road. Planning Commission and City Council action is required.

The realignment is a 70-foot wide collector street corridor east of the current street location. This realignment will not only provide for improved roadway conditions but eliminate the existing dangerous intersection with Hwy 112. The new intersection, approximately 585-feet east of it's present location, is aligned with the entrance of the developing Bellclaire Subdivision.

The existing, remaining, section of Dean Solomon Road will be reclassified as a local residential street. Approximately 125-feet of roadway at the existing intersection with Hwy 112 will be abandoned and removed. It is requested that the abandoned right-of-way be vacated and land revert to the ownership of the Heights Developer/Owner, Paradigm Development. The property lines of lots 1 and 2 may be shifted westwardly to provide for a larger drainage easement and feature between lots 2 and 3. The land area to the south will be used by the POA for identification signage and landscaping.

The attached exhibit indicates the realignment of Dean Solomon Road, the existing Dean Solomon Road relocation and improvements (14-foot widening of the east half with curb and guttering, and sidewalk) currently call Street "1" for planning. Abandonment, vacating of 2 sections, at the intersection of Hwy 112 and for the intersect improvements of Street 1 with the new Dean Solomon Road.

Attached you will find a plat titled Tract Split Adjustment. This modification to the Tract Split is made to include full right-of-ways and additional lots reflected on the proposed Heights Subdivision at Park West plat. This plat will be filed with approval of the Heights Preliminary Plat creating the proposed tract. One description is provided for the tract, in entirety.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CA

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

Attached you will find a plat, Exhibit A, titled Master Street Plan Amendment, Relocation of Dean Solomon Rd., Collector Street. This corresponds with the proposed development of the Heights. Description of the new right-of-way is given.

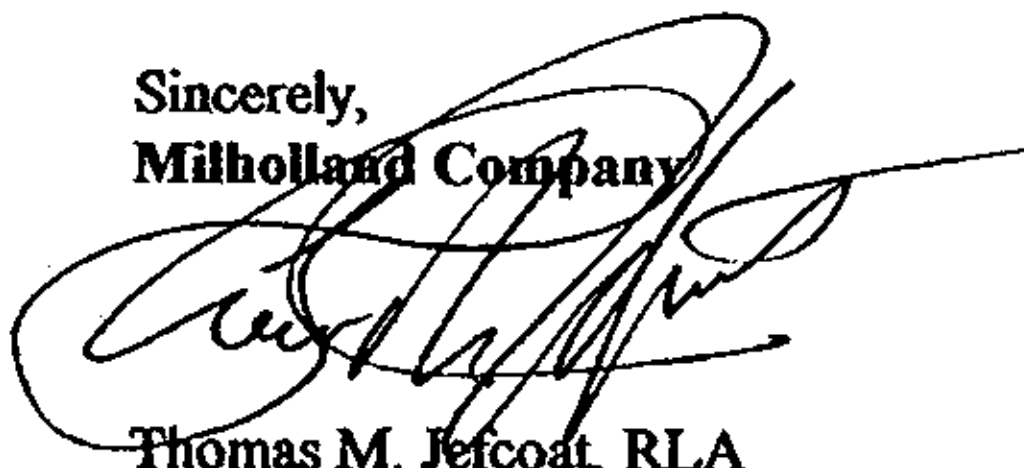
Attached you will find a plat, Exhibit B, titled Master Street Plan Amendment, Reclassification of Dean Solomon Rd. - Street "1", Local Street. This corresponds with the proposed development of the Heights and improvements to Street "1". Since this is an existing right-of-way no description is given as it is assumed to be as existing

Attached you will find a plat, Exhibit C, titled Vacate right-of-way, Dean Solomon Rd., Street "1" location. This corresponds with the proposed development of the Heights and location of Street "1". Both vacated areas are to revert in ownership to Paradigm Development for use in improvements and development of the Heights at Park West. Description of these two (2) areas is provided.

Should you have any questions or require additional information in presenting these requested requirements to the Planning Commission and City Council, please advise.

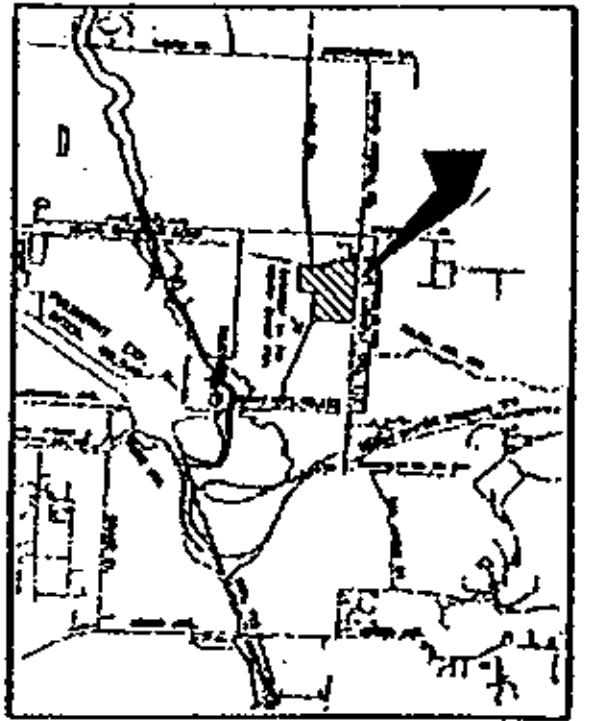
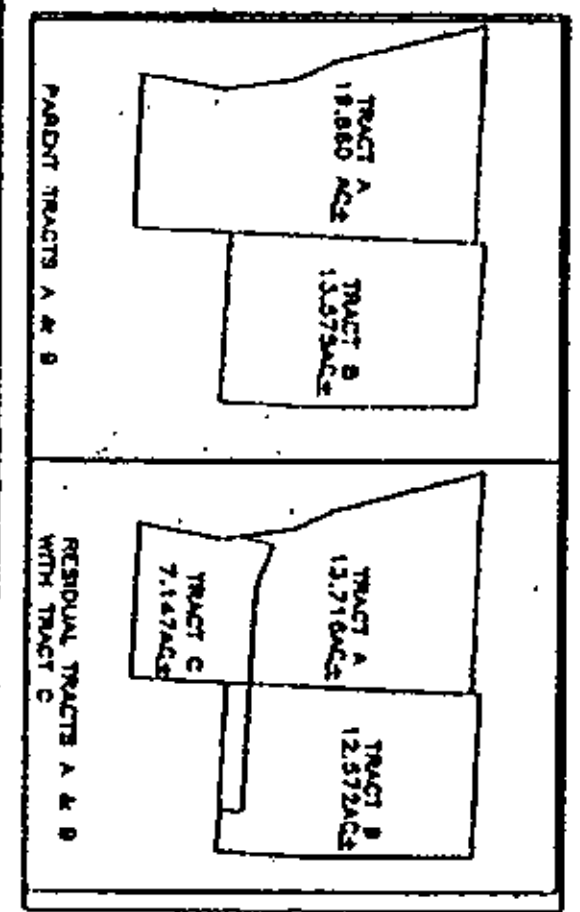
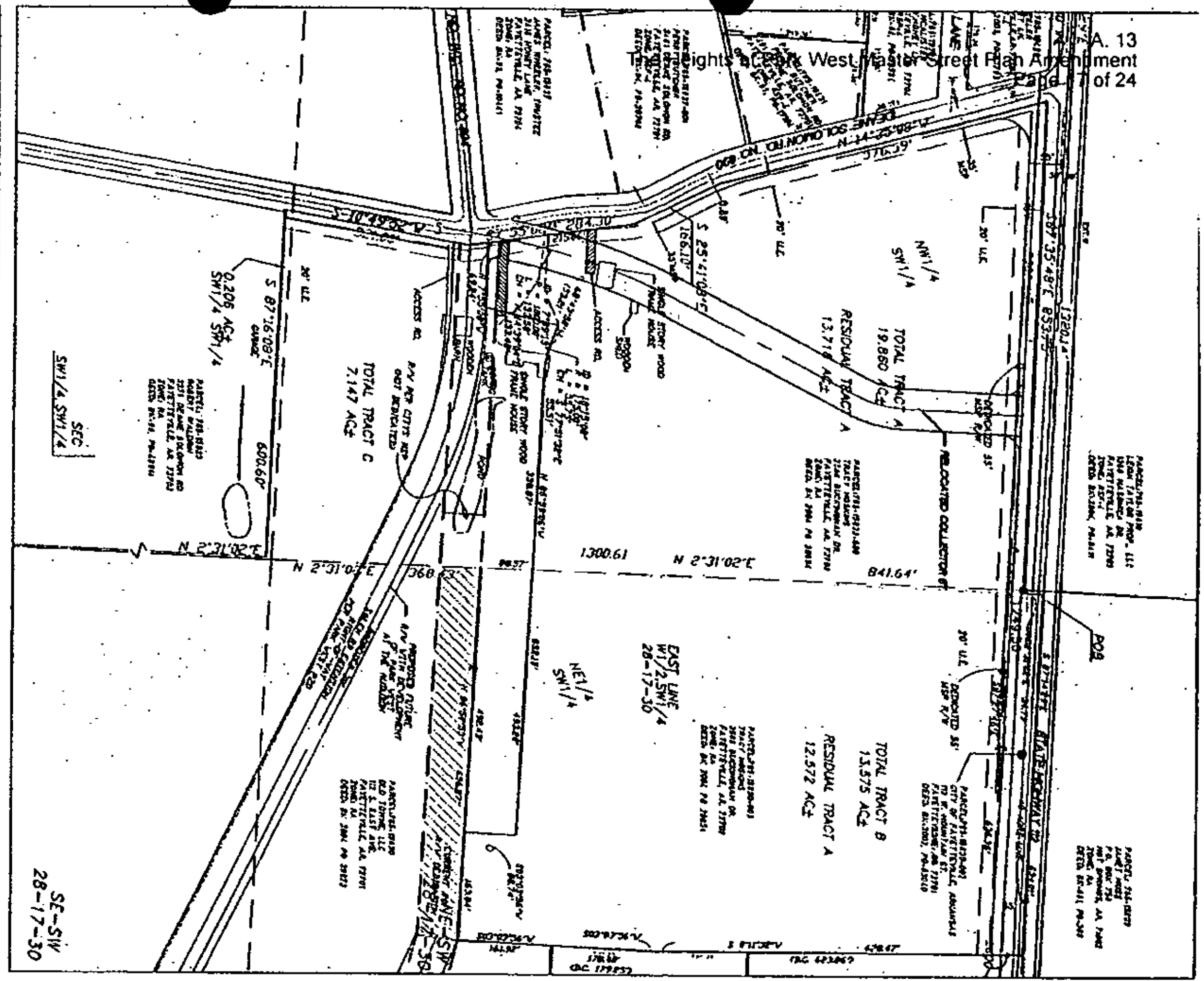
Thank you for your assistance in these matters.

Sincerely,
Milholland Company



Thomas M. Jefcoat, RLA
Senior Projects Manager

cc: Tracy Hoskins



DESCRIPTION OF REVISED MASTER STREET PLAN

DEANE SOLOMON ROAD

PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 28 TOWNSHIP 12 NORTH (T-12-N) RANGE THIRTY WEST (R-30-W), MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE N 1/4 CORNER OF SAID SECTION AND COMMENCING THENCE ALONG THE N. BOUNDARY OF SAID S.W. QUARTER (SW 1/4) S 87-14-28 E 101.13 FEET;

THENCE LEAVING SAID BOUNDARY S 02-45-31 W 54.37 FEET TO A POINT ON THE S. RIGHT-OF-WAY OF THE MASTER STREET PLAN ARKANSAS STATE HWY 112 AND THE CENTER LINE OF A PROPOSED 70.00 FOOT RIGHT-OF-WAY FOR A REVISED LOCATION OF THE MASTER STREET PLAN FOR DEANE SOLOMON ROAD, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ALONG SAID CENTER LINE S 02-54-17 W 200.63 FEET, TO THE PC OF A CURVE TO THE RIGHT;

THENCE ALONG SAID CURVE HAVING RADII OF 200.00 FEET AND A DELTA ANGLE OF 25-00-00" AND A CURVE LENGTH OF 87.27 FEET WITH A CHORD BEARING S15-24-17 W 86.58 FEET;

THENCE S 27-54-17 W 358.58 FEET, TO THE PC OF A CURVE TO THE LEFT;

THENCE ALONG SAID CURVE HAVING A RADII OF 1000.00 FEET AND DELTA ANGLE OF 17-05-00" AND A LENGTH OF 298.16 FEET WITH A CHORD BEARING S 19-15-12 W 297.06 FEET;

THENCE S 10-24-12 W 85.19 FEET TO A POINT AT THE INTERSECTION OF SALEM ROAD, WASHINGTON COUNTY RD NUMBER 884 WITH SAID DEANE SOLOMON ROAD CENTER LINE AS EXISTING;

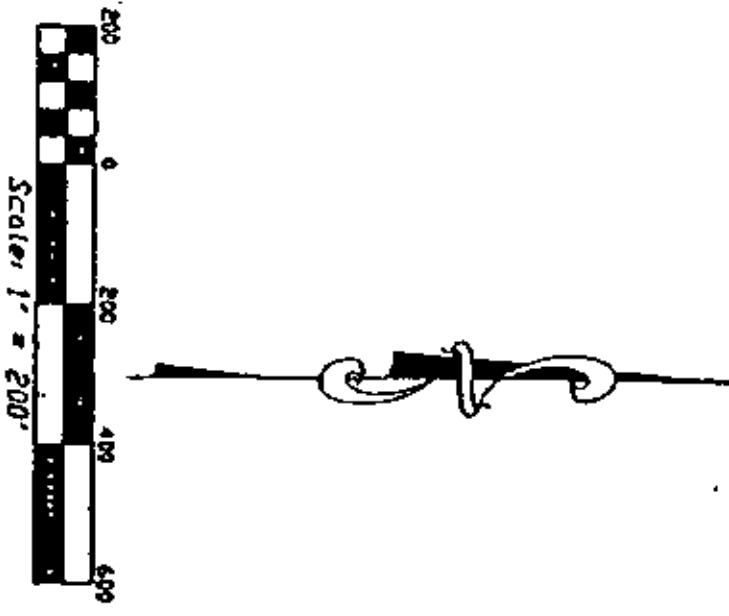
THENCE LEAVING SAID CENTER LINE N 87-29-11 W 744.12 FEET TO A POINT ON THE W. BOUNDARY OF SAID SECTION 28;

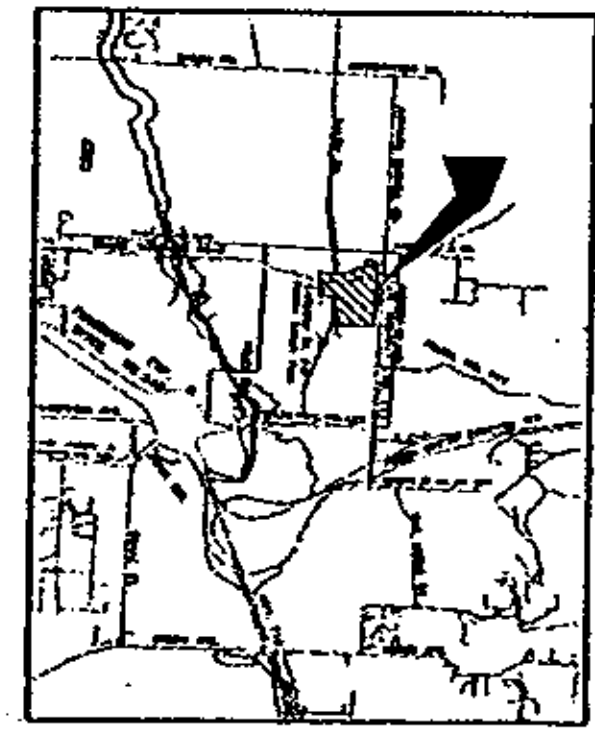
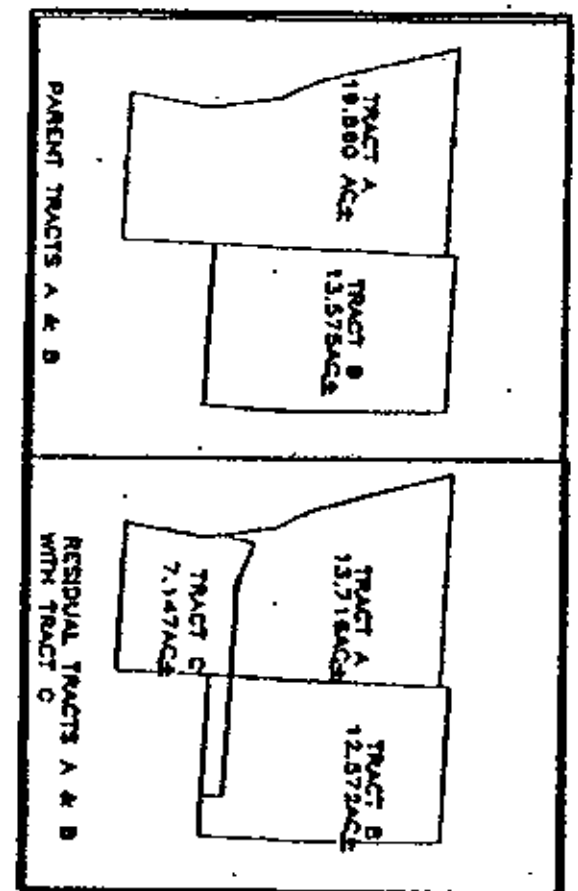
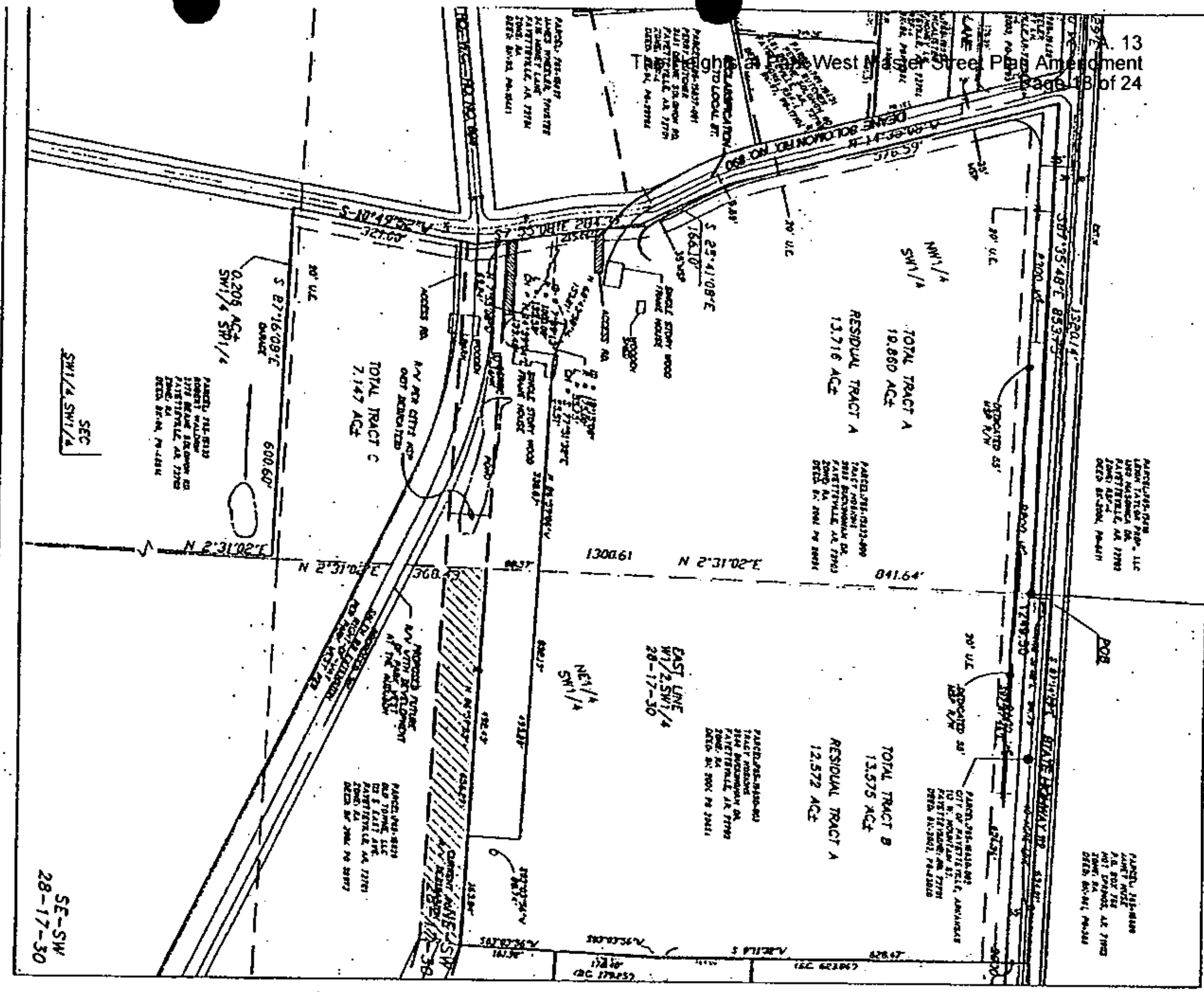
THENCE ALONG SAID BOUNDARY N 02-30-48 E 1012.59 FEET TO THE POINT OF COMMENCING, CONTAINING FULL WIDTH MASTER STREET PLAN RIGHT-OF-WAY 1010.81 FEET ALONG CENTERLINE, FAYETTEVILLE, ARKANSAS.

EXHIBIT A

MASTER STREET PLAN AMENDMENT RELOCATION OF DEAN SOLOMON RD COLLECTOR STREET

		PROFESSIONAL ENGINEERS	
Milholland & Company		SURVEYING SPECIALISTS	
205 W. Center Fayetteville, Arkansas		Phone: (479) 443-4324 Fax: (479) 443-4707 MOBILE: (479) 443-4707	
TRACY HOSKINS & MIKE PRICE		ARKANSAS	
DATE: 09-17-05 REVISIONS: 09-14-05 NO-HOUSE REVISIONS: 10-21-05		SCALE: 1"=200' TRACT NO.: 3588 RICHMOND DRIVE: 765-15640-003 FAYETTEVILLE, AR: 72103 765-15642-000 PLAT BOOK: 208 ZONING: RST-4 ADJACENT: 33.435 BASIS OF BEARINGS: CITY OF FAYETTEVILLE GPS SYSTEM DRAWING NO.: E-770	



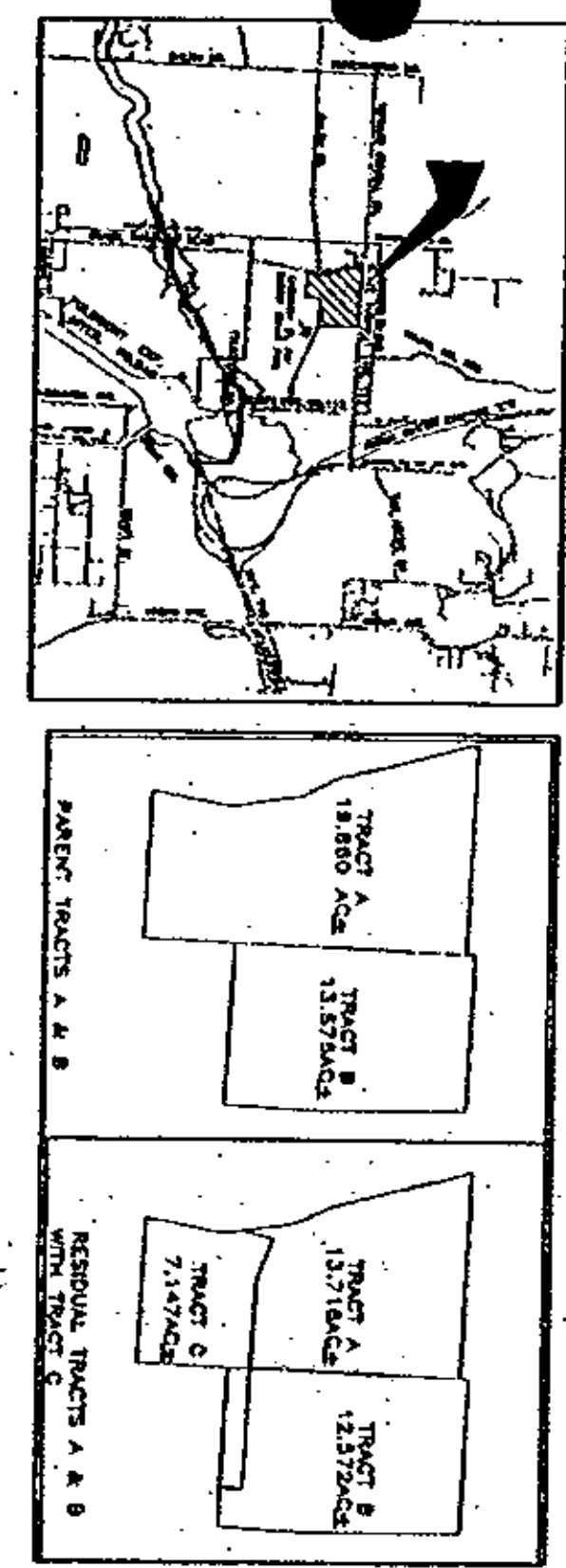
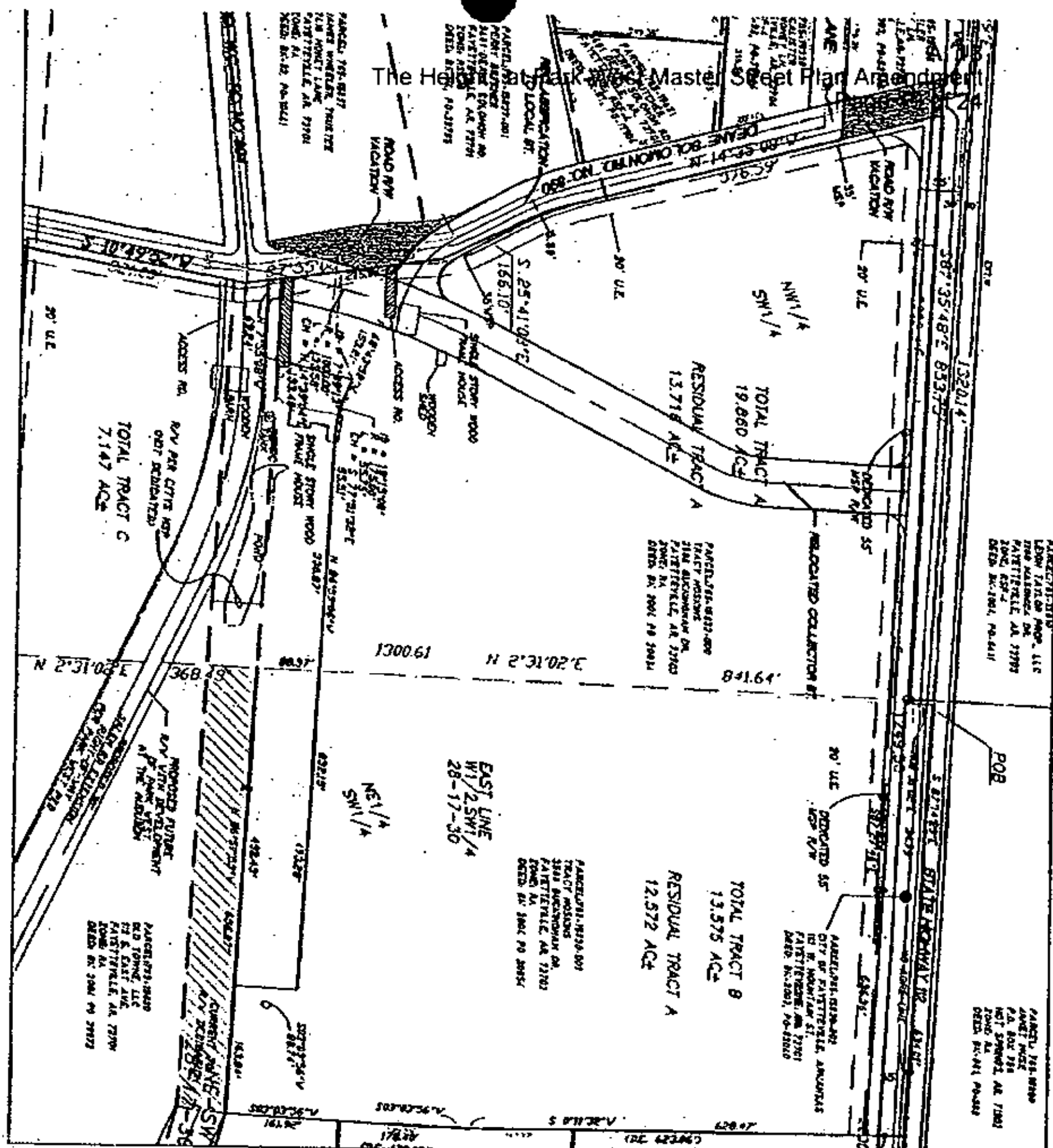


- LEGEND**
- SET IRON PIN
 - FOUND IRON PIN
 - POWER POLE
 - TELEPHONE FOOTCUT
 - EXT. FIRE HYDRANT
 - EXT. WATER LINE
 - EXT. RIGHT OF WAY
 - DEPOTED RIGHT OF WAY
 - UTILITY EASEMENT
 - BOUNDARY



EXHIBIT B **MASTER STREET PLAN AMENDMENT** **RECLASSIFICATION OF DEAN SOLOMON RD.** **STREET 7, LOCAL STREET**

 McHolland Company	PROFESSIONAL ENGINEERS		TRACY HOSKINS & MIKE PRICE		ARKANSAS	
	SURVEYING SPECIALISTS		DATE: 09-12-03			
205 N. Center Fayetteville, Arkansas		Phone: (479) 441-4724 Fax: (479) 441-4727 MCHOLLAND@mc-hol.net				
		REVISIONS: 08-14-03		DEVELOPER(S):		
		BY-HOUSE REVISIONS: 10-21-03		TRACY HOSKINS 3508 BUCKINGHAM DRIVE FAYETTEVILLE, AR 72703		
				ZONING: RSF-1		
				ACRES: 31.435		
				BASIS OF BEARINGS: CITY OF FAYETTEVILLE- GPS SYSTEM		
				DRAWN BY: MJ		
				CHECKED BY: MJ		
				DATE: 09-12-03		
				SCALE: 1"=200'		
				PARCEL NO. 763-15830-001 763-15830-002		
				PLAT BOOK: 208		
				DRAWING NO. E-270		



Scale: 1" = 200'

DESCRIPTION OF DEANE SOLOMON VACATION: SEGMENT 1

PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 28 TOWNSHIP 17 NORTH (T-17-N), RANGE THIRTY WEST (R-30-W), MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE W 1/4 CORNER OF SAID SECTION AND CONTINUING THENCE ALONG THE N BOUNDARY OF SAID SW QUARTER S 87-14-28 E 443.57 FEET; THENCE LEAVING SAID BOUNDARY S 02-45-31 W 402.50 FEET TO A POINT ON THE CENTER LINE OF DEANE SOLOMON RD (WASHINGTON COUNTY ROAD NUMBER 890) SAID POINT BEING THE POINT OF BEGINNING; THENCE S 14-14-19 E 145.83 FEET ALONG SAID CENTER LINE TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF HONEY LAKE; THENCE LEAVING SAID CENTERLINE AND SEGMENT OF WACATON N 87-29-11 W 485.42 FEET TO A POINT ON THE W BOUNDARY OF SAID SECTION 28; THENCE N 02-50-49 E 182.04 FEET ALONG SAID W BOUNDARY TO THE POINT OF COMMENCING; CONTINUING FULL WIDTH OF RIGHT-OF-WAY OF SEGMENT DEANE SOLOMON RD; FAYETTEVILLE, ARKANSAS.

DESCRIPTION OF DEANE SOLOMON VACATION: SEGMENT 2

PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 28 TOWNSHIP 17 NORTH (T-17-N), RANGE THIRTY WEST (R-30-W), MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE W 1/4 CORNER OF SAID SECTION AND CONTINUING THENCE ALONG THE N BOUNDARY OF SW 1/4 SAID SECTION S 87-14-29 E 708.92 FEET; THENCE LEAVING SAID BOUNDARY S 02-45-31 W 888.13 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF DEANE SOLOMON RD (MC NO 650) AND NORTHERLY BOUNDARY OF SKEW ROAD (MC NO 894) AND POINT OF BEGINNING; THENCE ALONG SAID WESTERLY BOUNDARY N 11-31-55 W 9.17 FEET; THENCE N 11-35-38 W 100.07 FEET TO THE PC OF A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE HAVING A RADIUS OF 375.00 FEET AND DELTA ANGLE OF 7-56-43" WITH A CURVE LENGTH OF 52.00 FEET HAVING A CHORD BEARING N 07-39-00 W 51.98 FEET TO THE LEFT; THENCE ALONG SAID CURVE HAVING A RADIUS OF 135 FEET AND DELTA ANGLE OF 23-41-50 WITH A CURVE LENGTH OF 55.04 FEET HAVING A CHORD BEARING N 15-28-26 W 55.44 FEET; THENCE ALONG SAID RIGHT-OF-WAY N 27-28-41 E 66.31 FEET; THENCE LEAVING SAID RIGHT-OF-WAY S 30-46-16 E 94.52 FEET TO A PC OF A PROPOSED RIGHT-OF-WAY CURVING TO THE LEFT; THENCE ALONG SAID CURVE HAVING A RADIUS OF 175 FEET AND DELTA ANGLE OF 28-38-35" WITH A CURVE LENGTH OF 90.54 FEET; HAVING A CHORD BEARING S 42-33-37 E 89.53 FEET TO THE PC OF A PROPOSED RIGHT-OF-WAY CURVING TO THE RIGHT; THENCE ALONG SAID CURVE HAVING A RADIUS OF 310.00 FEET AND DELTA ANGLE OF 74-28-57" WITH A CURVE LENGTH OF 42.90 FEET; HAVING A CHORD BEARING S 20-08-27 E 39.94 FEET TO THE PC OF A PROPOSED RIGHT-OF-WAY CURVING TO THE LEFT; THENCE ALONG SAID CURVE HAVING A RADIUS OF 1025 FEET AND DELTA ANGLE OF 6-21-20" WITH A CURVE LENGTH OF 115.41 FEET; HAVING A CHORD BEARING S 13-54-22 W 115.35 FEET TO THE PC OF A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE HAVING A RADIUS OF 22.43 FEET AND DELTA ANGLE OF 53-41-47" WITH A CURVE LENGTH OF 31.02 FEET; HAVING A CHORD BEARING S 31-59-44 W 20.26 FEET TO THE POINT OF BEGINNING; CONTINUING 0.250 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, AR.

EXHIBIT C VACATE RIGHT-OF-WAY DEANE SOLOMON RD STREET T' LOCATION

		PROFESSIONAL ENGINEERS	
205 W. Center Fayetteville, Arkansas		SURVEYING SPECIALISTS	
Phone: (479) 443-4774 Fax: (479) 443-4707		TRAJOY HOSKINS & MIKE PRICE	
DATE: 09-12-05		DEVELOPER(S):	
REVISIONS: 09-14-05		TRAJOY HOSKINS	
IN-HOUSE REVISIONS: 10-31-05		3588 BUCKINGHAM DRIVE FAYETTEVILLE, AR 72703	
ACRES: 33.435		SCALE: 1"=200'	
CONV: RS-4		PARCEL NO: 783-15430-003	
ACRES: 33.435		783-15430-000	
PLAT BOOK: 208		PLAT BOOK: 208	
DATE OF BEARING: 09-05-2004		DRAWN BY: BA	
DATE OF BEARING: 09-05-2004		DRAWING NO: E-770	

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CA

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

April 3, 2006

Project Number E-770

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Suzanne Morgan, Planning Division

RE: The Heights at Park West PPL 00-1998

East-West Collector Street Amendment to the MSP

Dear Suzanne:

This correspondence is in request of an amendment to the current Master Street Plan relocating of a proposed east-west collector street referred to as the Salem Rd. extension from Dean Solomon Road to Highway 112 crossing the old Graves property, purchased and now owned by Paradigm Development, Mr. Hoskins to the new location recently approved and shown on the Master Development Plan for Park West at the Audubon. This request is made per comments received during Tech Plat review of this project, dated March 15, 2006.

Since the Master Street Plan is a suggested guide and there are no legal description of proposed rights-of-ways, I remain confused as to way this step is necessary. The MSP calls for a collector street connection and one is proposed to be provided through this area. The MSP does not give an exact street corridor location nor is the owner/developer prepared to do so at this point. As the development progresses from concept to divided tracts for development, a right-of-way access easement for construction of this collector street will be provided. Even until construction plans for the street is actually approved for constructed, the exact location of the right-of-way may require adjustments. At any rate, as you have requested, we submit this letter requesting adjustment of the MSP to reflect the proposed east-west extension of Salem Rd. across the proposed development, Park West at the Audubon, from its current suggested MSP location to the proposed suggested MSP location. See attached Exhibit for your use.

I also realize that you would like a vacation request for an easement that you, the City, contends exist in connection with and along the south boundary of the old Price property and through the old Graves property. As stated in past correspondence, while you may have a map prepared by Alan Reid indicating a 70-foot right-of-way for a collector street through the Graves property and along and outside (adjacent) of the south boundary of the old Price property, there is no easement access or dedicated right-of-way description recorded, only a statement of dedication. According to title search and abstract documentation provide (Schedule B-II) to MCO during purchase of the property by Mr. Hoskins there is no described right-of-way to vacate.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CA

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

However, please process the vacating of any such said right-of-way for which we have no description or recorded information but that does show as a general location on an Alan Reid survey dated 4/8/2002 and recording date of 6/11/2002 in acceptance or exchange for a proposed right-of-way of same general description or as shown in the approved Master Development Plan of Park West at the Audubon. If you should need a formal application submitted for this purpose than this letter, please advise how you would like such wording or Exhibit modified than that provided herewith.

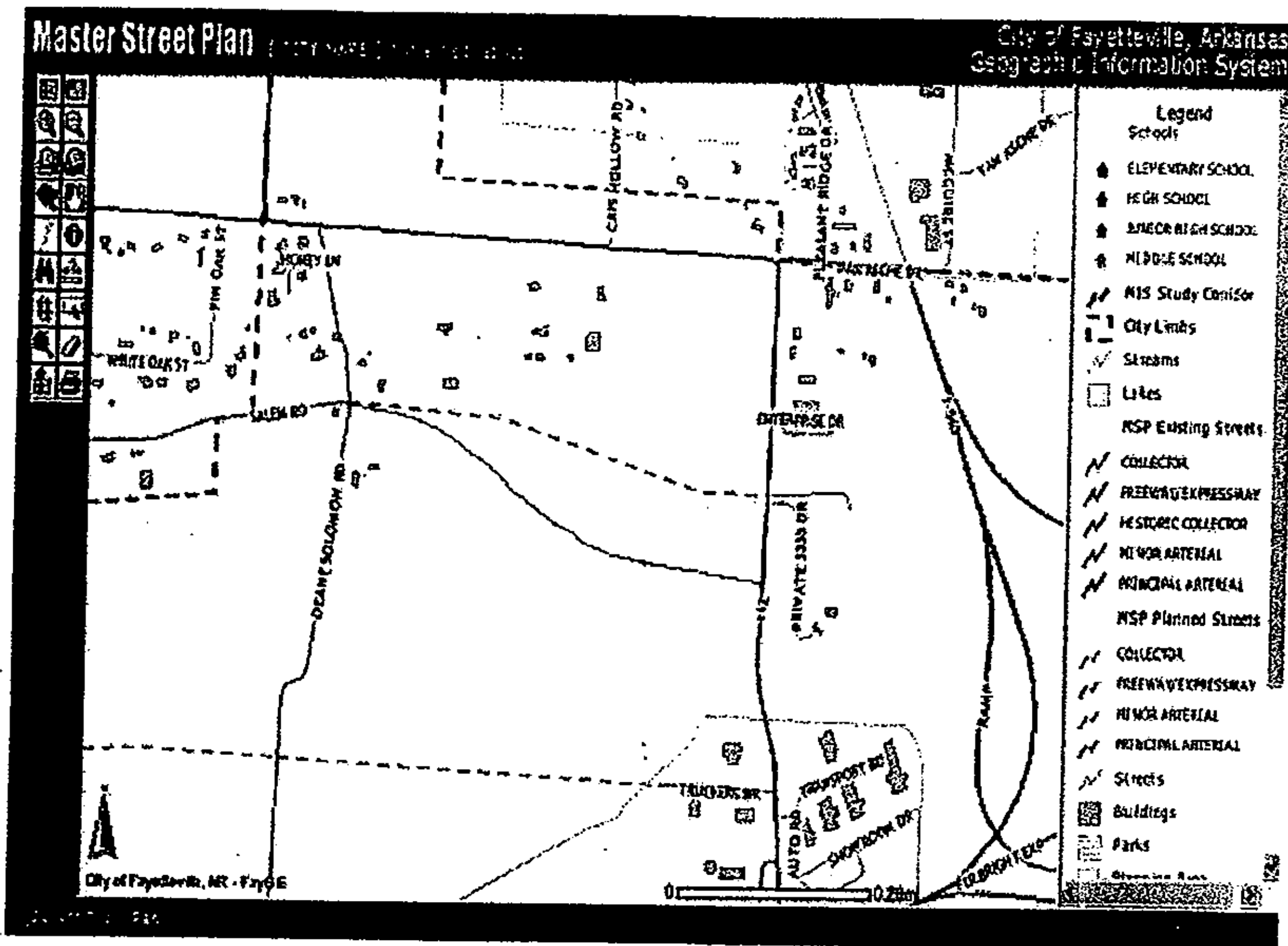
Your assistance and help in this matter are appreciated. We respectfully request your advise as to what you may need from us to accomplish the results intended. Do not hesitate to call and inform me as what else MCO may can provide for the processing of this request.

Sincerely,

Miltholland Company


Thomas M. Jefcoat, RLA
Senior Projects Manager

cc: Tracy Hoskins



----- CURRENT PROPOSED COLLECTOR ST.

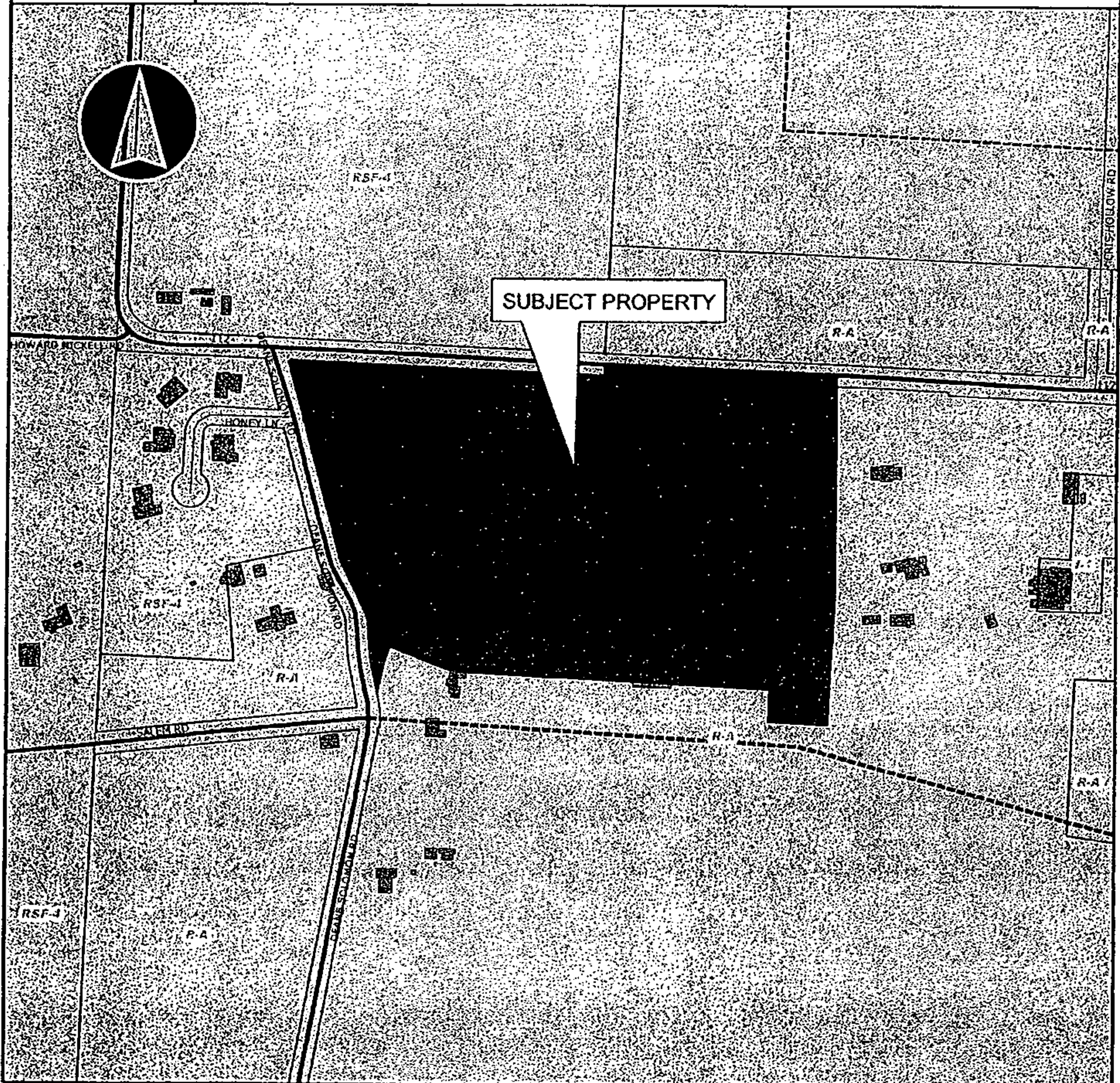
----- APPROVED MASTER DEVELOPMENT
PLAN COLLECTOR STREET LOCATION
PARK WEST ON THE AUDUBON

CITY OF FAYETTEVILLE MASTER STREET PLAN

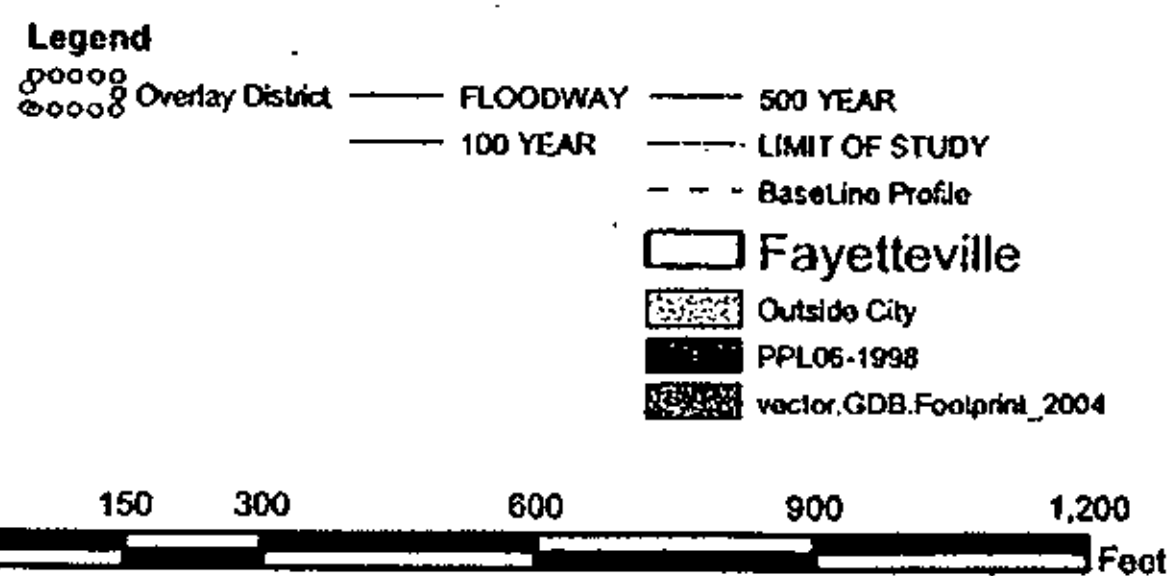
PPL06-1998

Close Up View

THE HEIGHTS @ PARK WEST



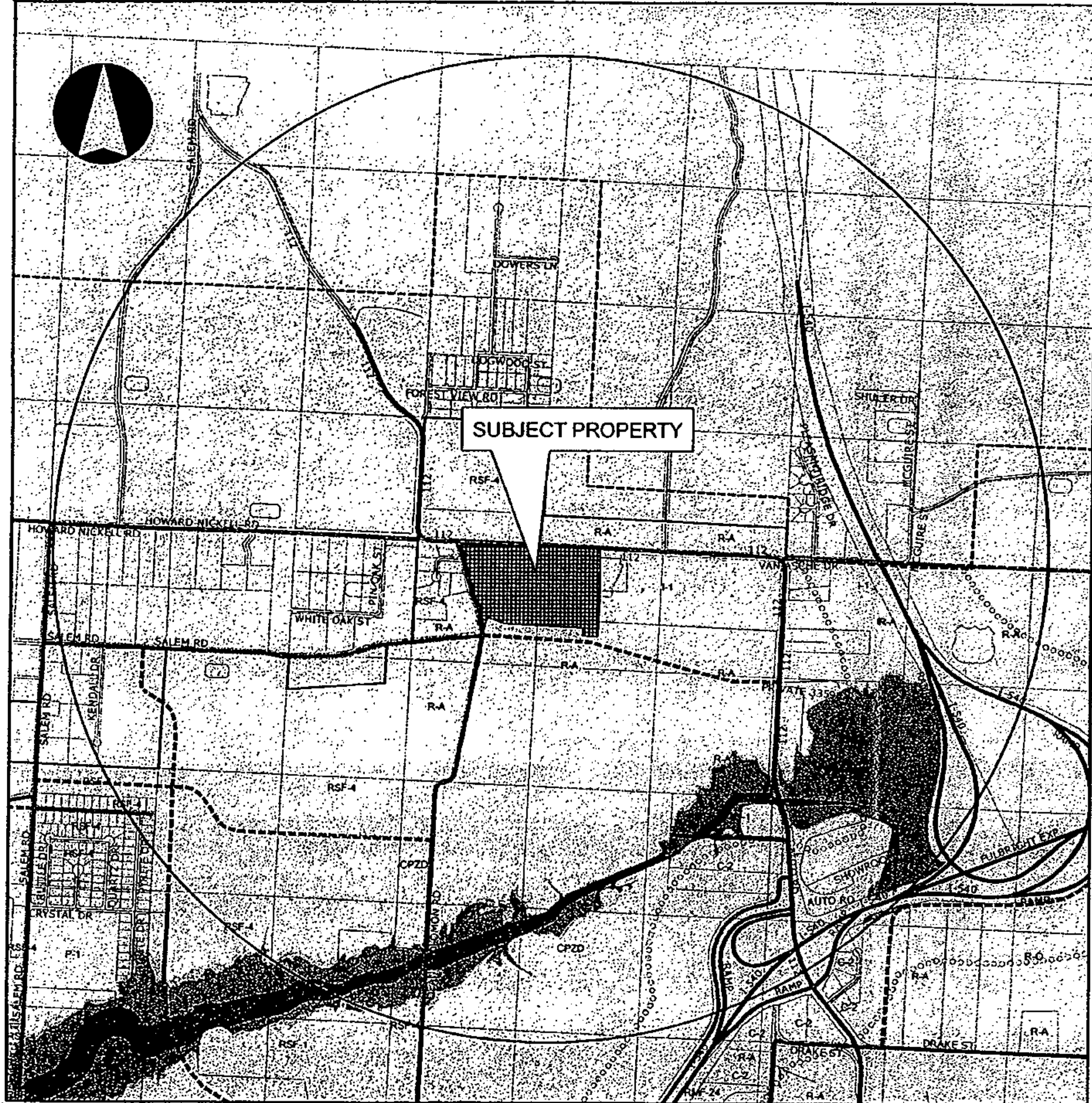
Overview



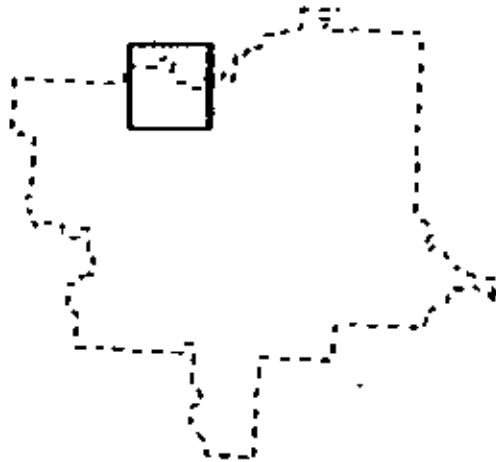
PPL06-1998

THE HEIGHTS @ PARK WEST

One Mile View



Overview



Legend

Subject Property
PPL06-1998

Boundary

Planning Area
Overlay District
Outside City

0 0.125 0.25 0.5 0.75 1
Miles

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

16-May-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
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

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

City Attorney

Original Contract Number: n/a

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED

Mayor

Date

Received in Mayor's Office

ENTERED

Comments:

Left on the second reading 5/16/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: 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.

DRAFT

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, SWPCO, 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.

DRAFT



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	<u>YES</u>
	✓ Fwd to CC	☐ Denied ☐ Tabled
Meeting Date: <u>April 24, 2006</u>		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.

***Required Findings for Rezoning Request.**

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 1 mile 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



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,

A handwritten signature in cursive script, appearing to read "William Brown".

Captain William Brown
Fayetteville Police Department



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 1 mile 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

B. 1
C-PZD 06-1921 Lazenby Phase II
Page 32 of 44





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.

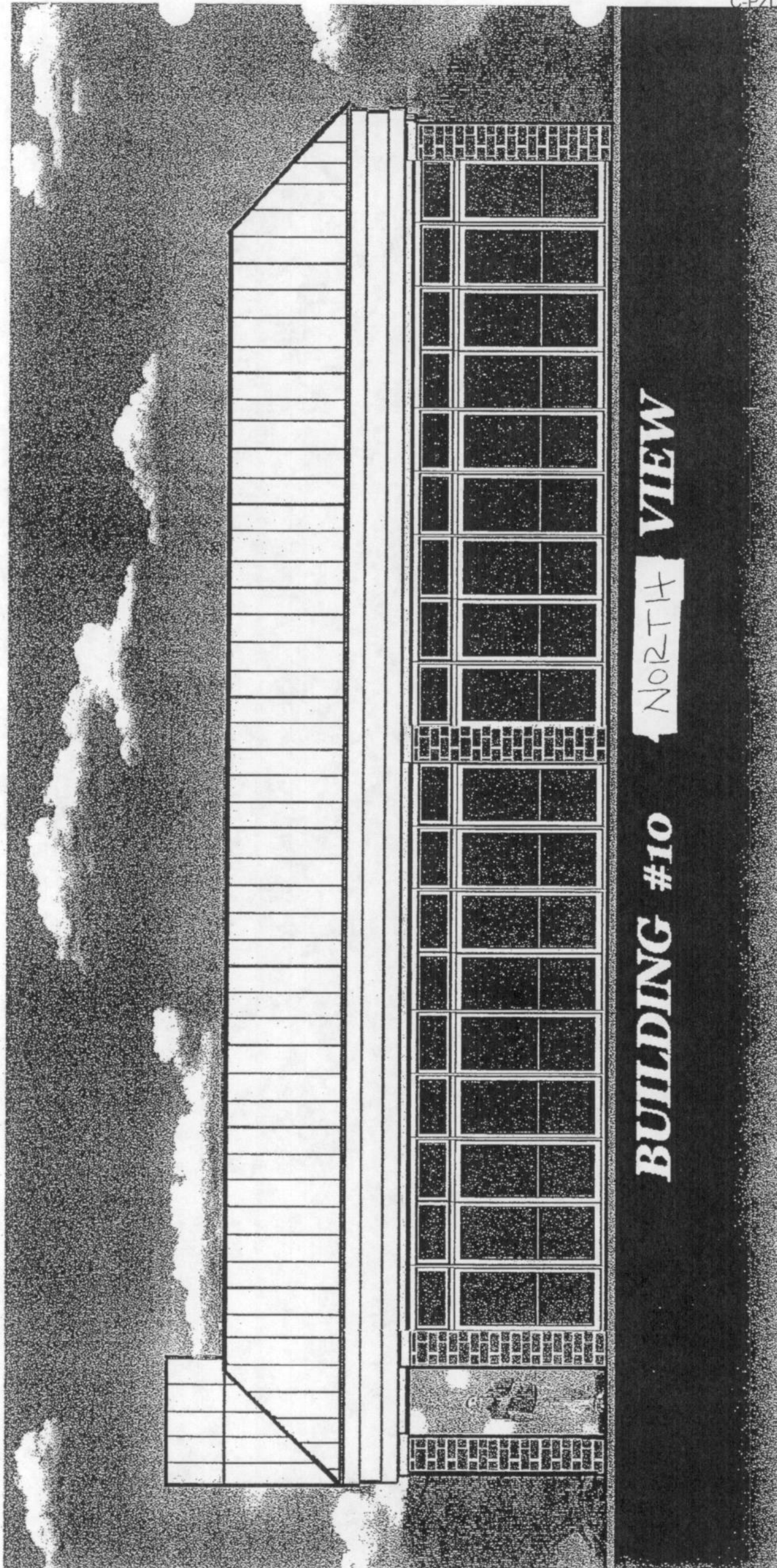
Sincerely,

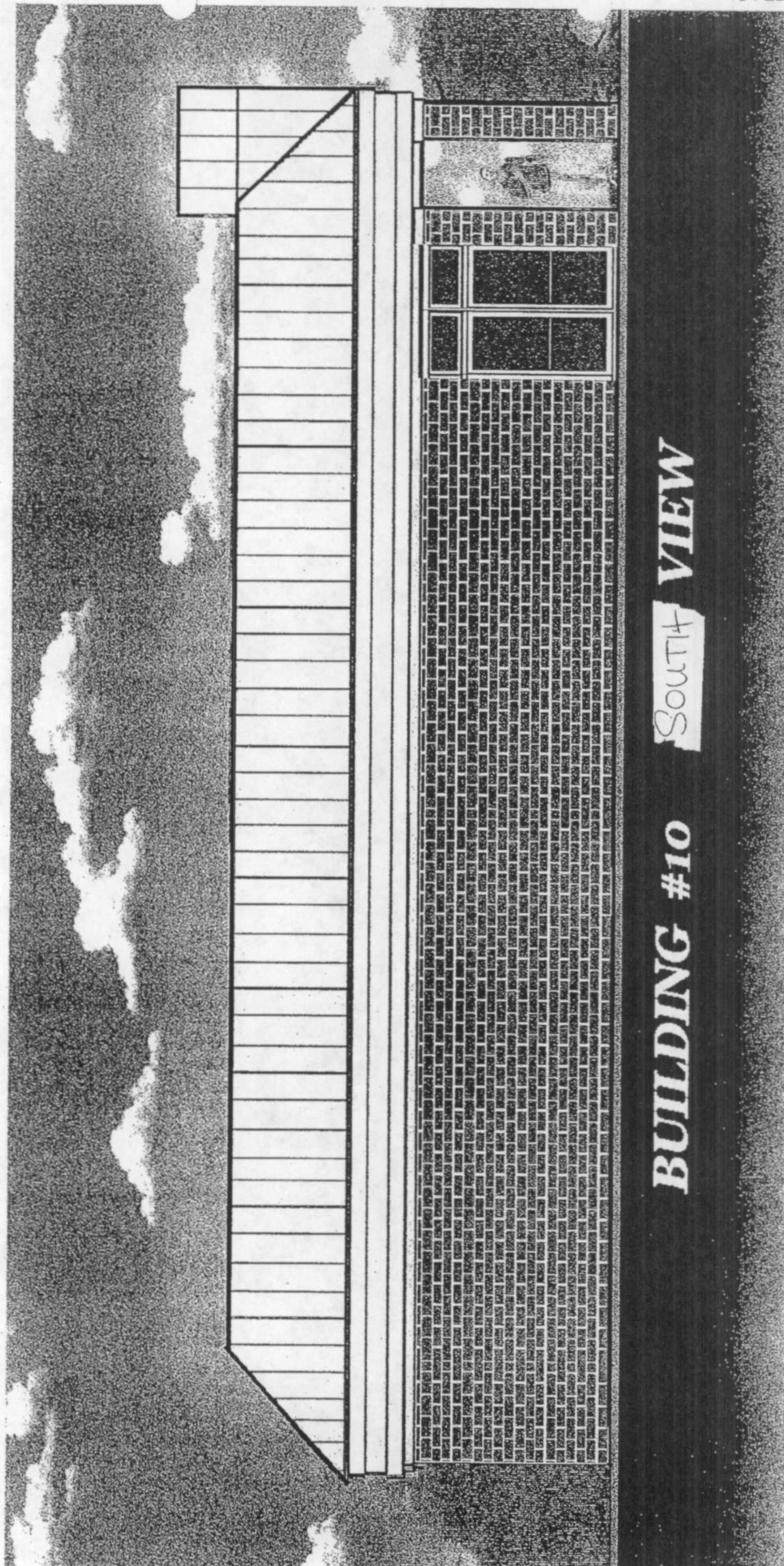


Leonard F. Gabbard, P.E.

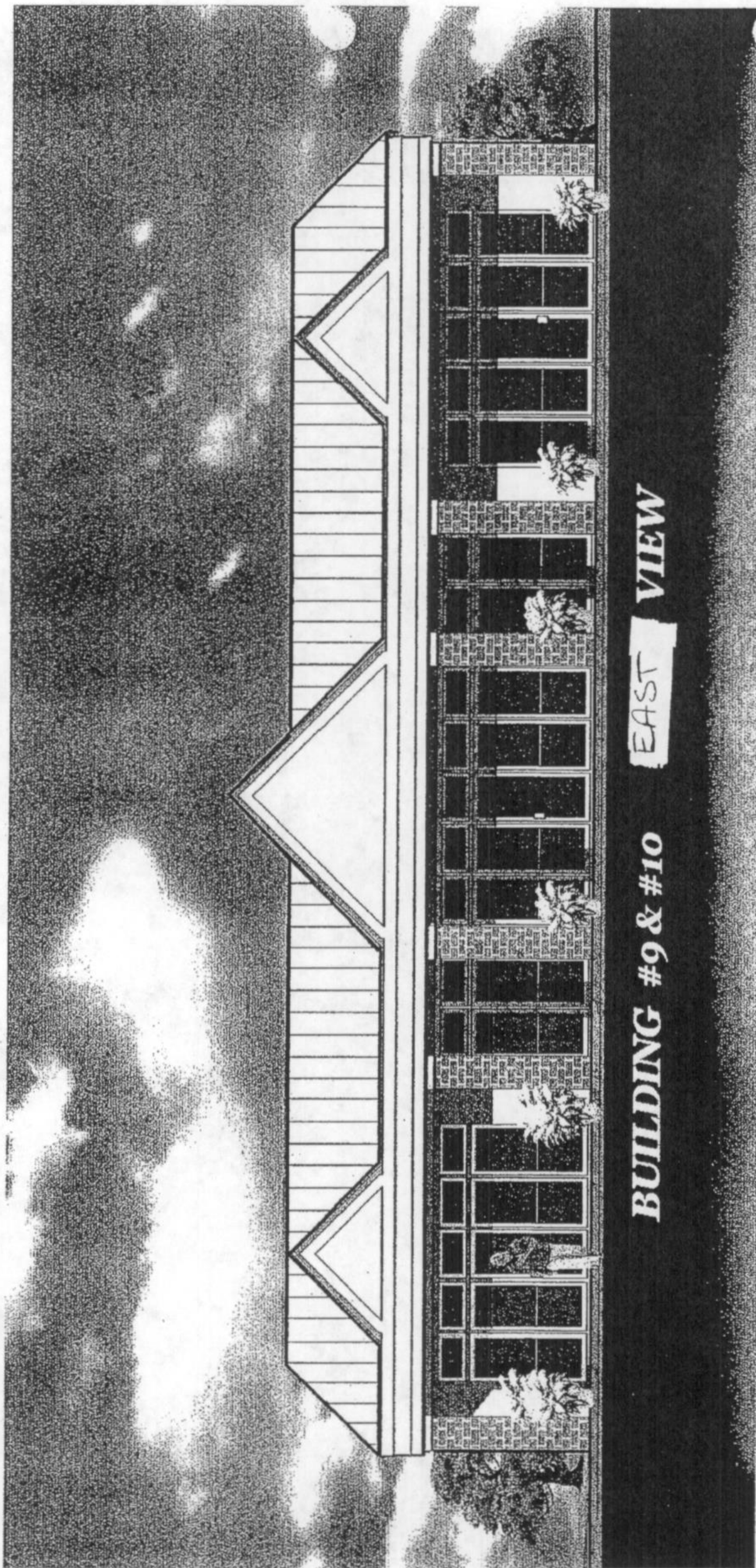
R-PZD 03-04.00

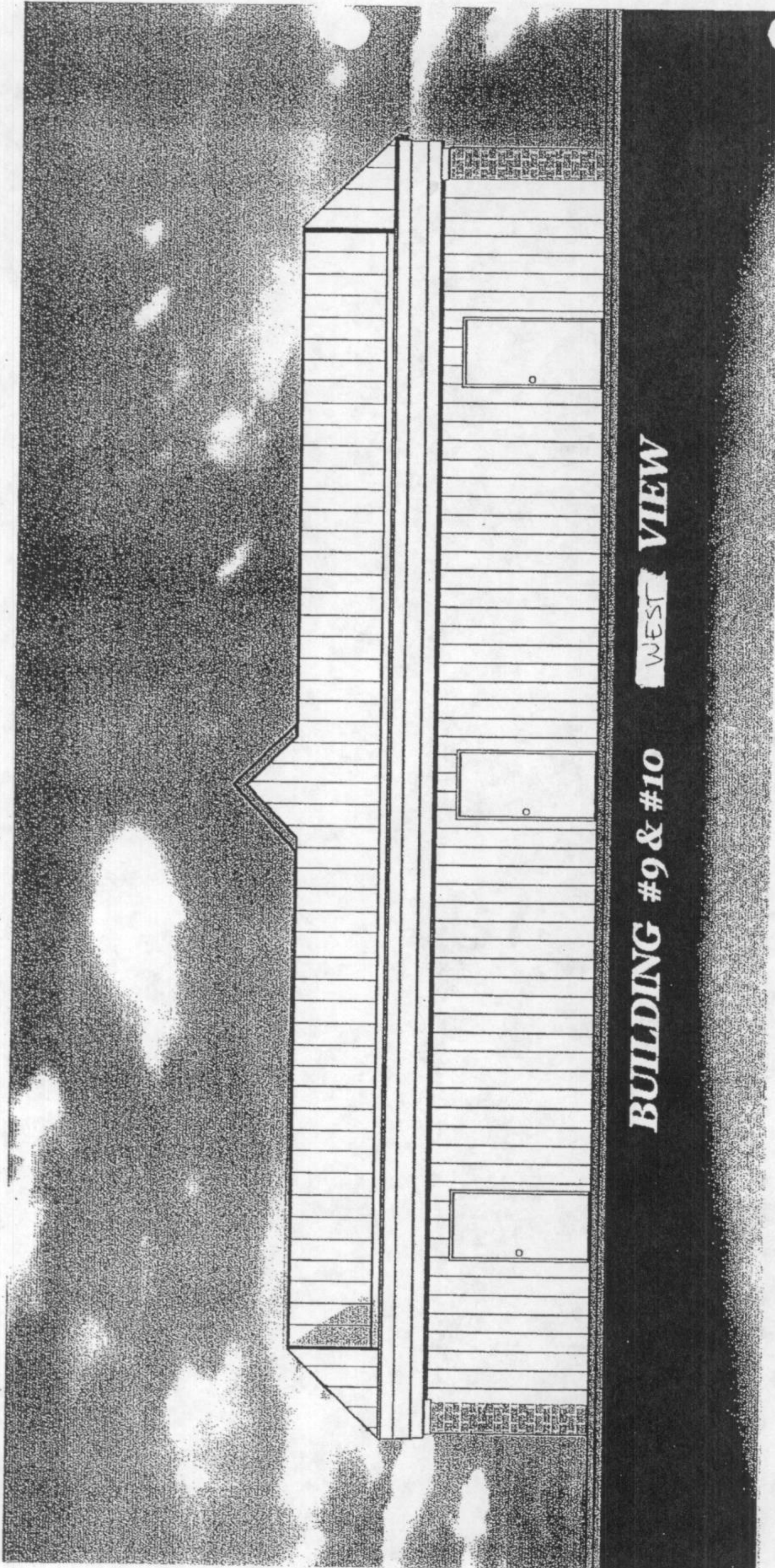
Approved Architectural Elevations

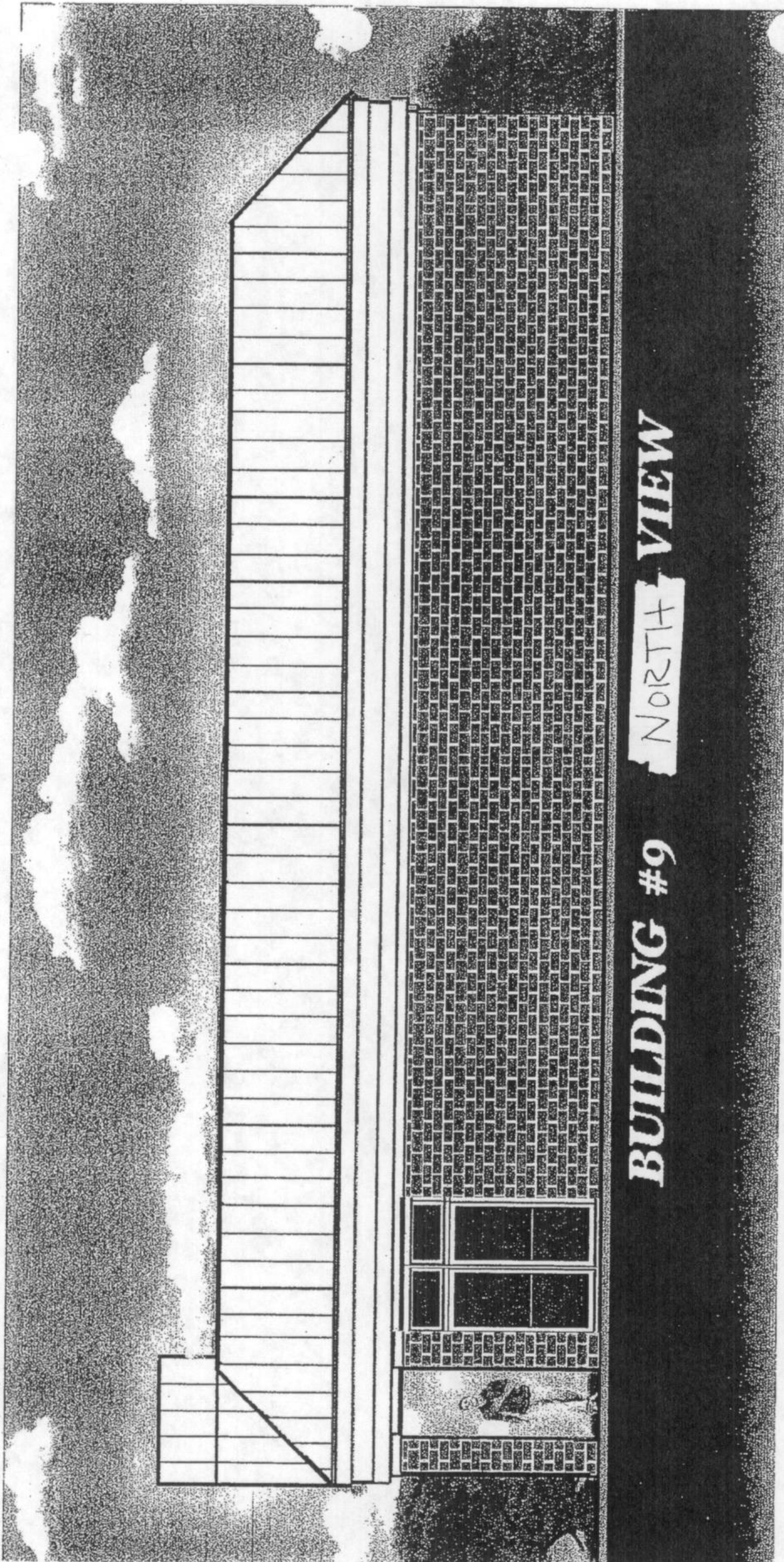




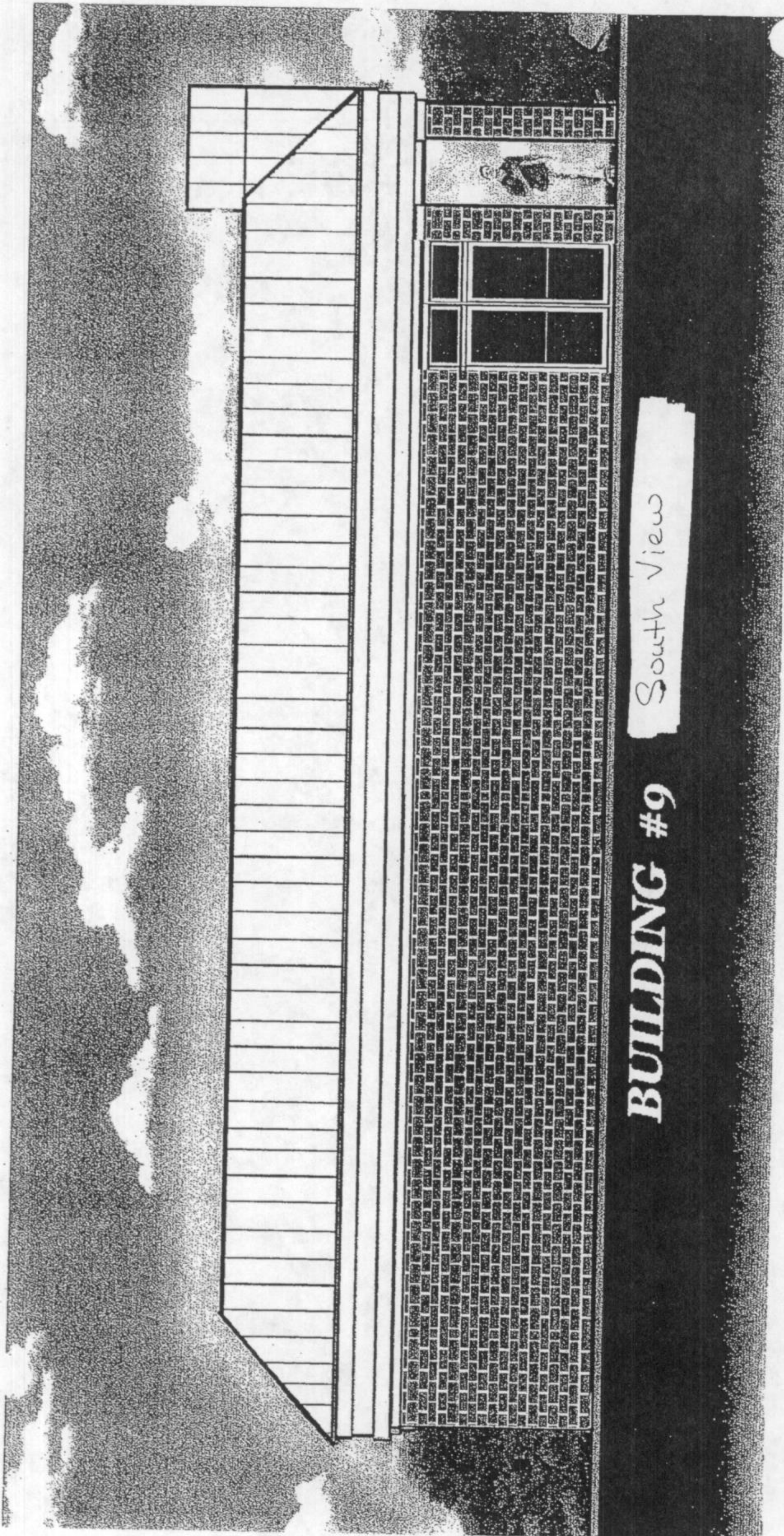
BUILDING #10 **SOUTH VIEW**







BUILDING #9 **NORTH VIEW**

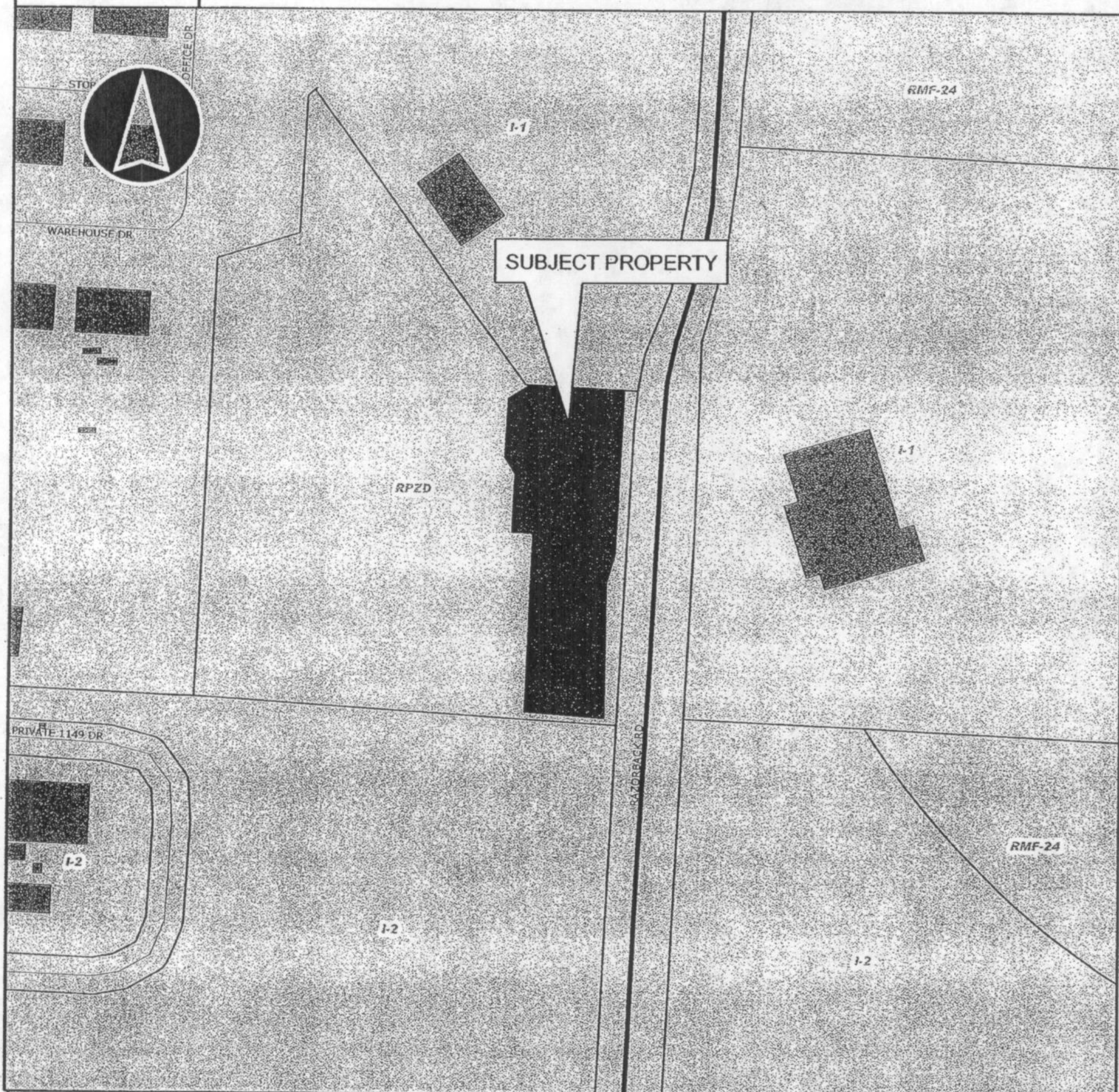


BUILDING #9 South View

RPZD06-1921

LAZENBY PHASE II

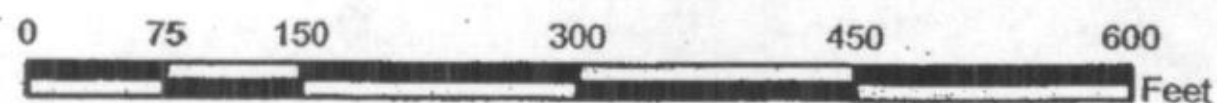
Close Up View



Overview

Legend

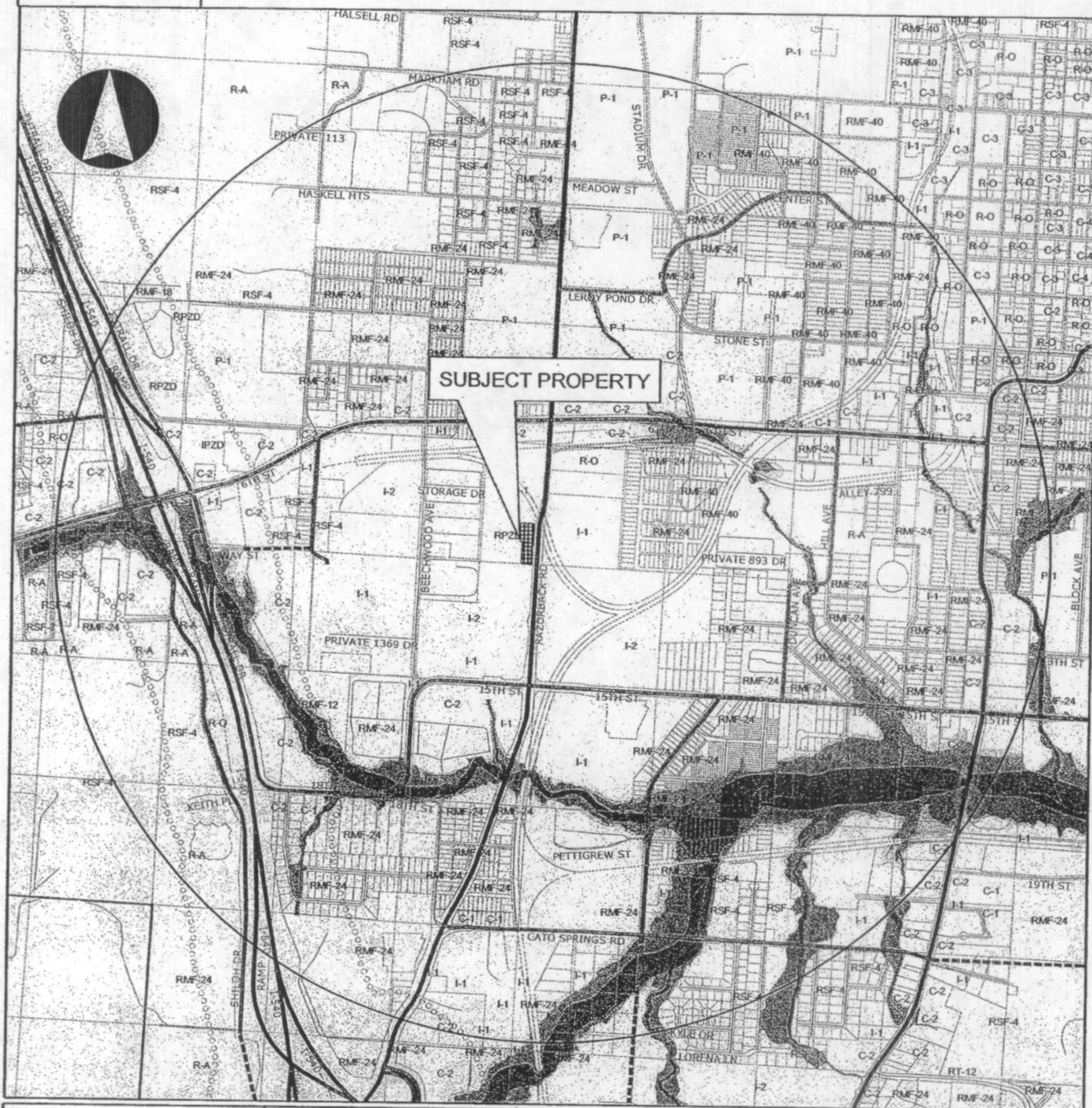
- ○ ○ ○ ○ Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-1921
- vector.GDB.Footprint_2004



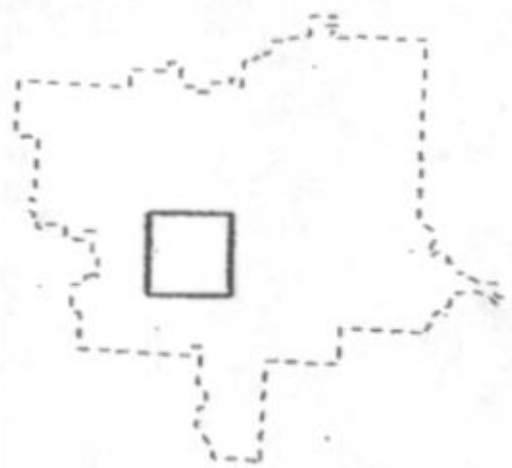
RPZD06-1921

LAZENBY PHASE II

One Mile View



Overview



Legend

Subject Property

RPZD06-1921

Boundary

Planning Area

Overlay District

Outside City

0 0.125 0.25

0.5

Legend

0.75

1

Miles

CITY ATTORNEY AGENDA REQUEST

C. 1
Improvement District No. 14
Clearwood Crossing Dissolution
Page 1 of 6

FOR: COUNCIL MEETING OF June 6, 2006

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

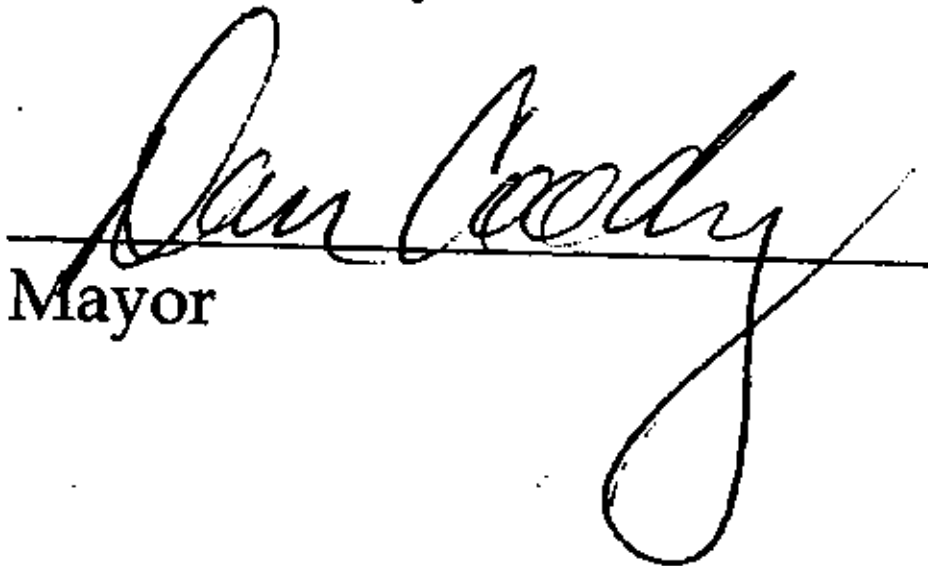
An Ordinance To Repeal Ordinance No. 4843 And Dissolve The Clearwood Crossing
Improvement District No. 14 Of Fayetteville, Arkansas

APPROVED FOR AGENDA:



City Attorney

5-15-06
Date



Mayor

5/15/06
Date

**RESOLUTION OF
CLEARWOOD CROSSING
MULTI-PURPOSE MUNICIPAL
IMPROVEMENT DISTRICT NO. 14 OF
FAYETTEVILLE ARKANSAS
(the "District")**

The following resolution was unanimously adopted by all of the commissioners of the District:

WHEREAS, the District was formed pursuant to Ordinance No. 4843 as adopted by the City of Fayetteville on March 7, 2006 for the purpose of financing certain of the infrastructure improvements that benefit that 47 lot subdivision located in Fayetteville, Arkansas and known as Clearwood Crossing; and

WHEREAS, the District's commissioners have realized that it has become impractical to further consider the issuance of infrastructure improvement bonds; and

WHEREAS, the District has conducted no business, entered into no contracts, issued no bonds and otherwise has not been involved in any other business or development activity of any nature; and

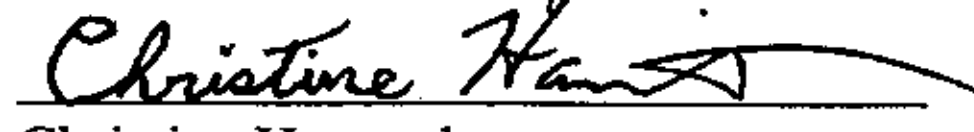
WHEREAS, the provisions of Arkansas Code Annotated 14-94-126 provide that improvement districts may be dissolved and terminated upon the unanimous vote of the members of a district's board of commissioners;

NOW, THEREFORE, as evidenced by their signatures below, the commissioners of the District do hereby unanimously authorize the irrevocable and unconditional dissolution, termination and discontinuation of the District and do hereby respectfully request that the City of Fayetteville, Arkansas adopt an ordinance serving to irrevocably and unconditionally dissolve, terminate and discontinue the District.

This resolution is adopted by the District as of this 8th day of May 2006.


Rick Hancock


Randy Rateliff


Christine Hancock

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL ORDINANCE NO. 4843 AND
DISSOLVE THE CLEARWOOD CROSSING IMPROVEMENT
DISTRICT NO. 14 OF FAYETTEVILLE, ARKANSAS**

WHEREAS, the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas was formed on March 7, 2006 by Ordinance No. 4843; and

WHEREAS, this Ordinance appointed Rick Hancock, Randy Ratliff and Christine Hancock as the Commissioners for the Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas; and

WHEREAS, the Commissioners have determined that it is impractical to issue infrastructure improvement bonds and by unanimous Resolution elected to dissolve the District which has not conducted any business, entered into any contracts, nor issued any bonds.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals Ordinance No. 4843 and dissolves Clearwood Crossing Improvement District No. 14 of Fayetteville, Arkansas pursuant to the Resolution of the District's Commissioners attached as Exhibit A.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

§ 14-94-123

LOCAL GOVERNMENT

- (B) Mature at such time or times;
- (C) Be payable, as to principal, premium, if any, and interest, at such places, within or without the State of Arkansas;
- (D) Be in such form, whether bearer or registered, negotiable or nonnegotiable;
- (E) Be subject to such exchange privileges; and
- (F) Have such other details as may be set forth in the resolution of the board authorizing their issuance.
- (2) The resolution may provide for the execution and delivery of a trust indenture or like instrument by the board securing the bonds and for the execution and delivery of other writings pertaining thereto.
- (3) The bonds, and coupons, if any, may be executed by the manual or facsimile signatures of the members of the board.
- Acts of 1987, Act 113, § 15.

Library References

Municipal Corporations ¶950(15).
Westlaw Key Number Search: 268k950(15).

Notes of Decisions

- In general 1
1. In general
- Development districts had standing to assert against bond trustee claim alleging trustee breached its duty under pledge and mortgage agreements to release lots, though such agreements were termed by the parties as a "trust," as agreements were not trusts in the classic donative sense of the word, but more akin to indenture agreements that established contractual relationships among the parties; districts were under duty to make bond payments in a timely manner and sell district-owned lots to help meet that requirement, trustee was under duty to release deeds upon payment of lot release price and retire the bonds upon payment by districts, and bondholders were required to finance bonds and refund bonds only at required times. A.C.A. § 14-94-123. First United Bank v. Phase II, 2002, 347 Ark. 879, 69 S.W.3d 33. Municipal Corporations ¶950(1)

§ 14-94-124. Exemption from taxation

The bonds, and interest on them, shall be exempt from all state, county, and municipal taxes, including income, property, and inheritance taxes.

Acts of 1987, Act 113, § 15.

Library References

Taxation ¶218.
Westlaw Key Number Search: 371k218.
C.J.S. Taxation § 304.

§ 14-94-125. Bonds and interest; payment

- (a)(1) All bonds issued under the terms of this chapter shall be secured by a lien on all real property in the district.
- (2) The making of assessments, levies, and collections, as authorized by this chapter, may be enforced by mandamus.
- (b)(1)(A) If any bond, or interest thereon, is not paid within thirty (30) days after its maturity, it shall be the duty of the chancery court, on application of
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MUNICIPAL PROPERTY OWNERS' IMPROVEMENTS § 14-94-126

any holder of the bond or any interest coupon so overdue, to appoint a receiver to collect the taxes aforesaid and an assessor to reassess the benefits, if necessary.

(B) The proceeds of the taxes and collections shall be applied, after payment of costs, first to overdue interest, and then to payment pro rata of all bonds issued by the district which are then due and payable.

(2)(A) The receiver may be directed by suit to foreclose the lien of the taxes on the real property.

(B) The suits brought by the receiver shall be conducted in all matters as suits by the board as provided in this chapter and with like effect, and the decree and deeds therein shall have the same presumption in their favor.

(C) When all the sums have been paid, the receiver shall be discharged and the affairs of the district conducted by the board as provided in this chapter.

Acts of 1987, Act 113, § 18.

Cross References

Writ of mandamus, see § 16-115-101 et seq.

Library References

Municipal Corporations ¶521, 919. C.J.S. Municipal Corporations §§ 1396, 1404.
Westlaw Key Number Search: 268k521; 1661.
268k919.

§ 14-94-126. Election to dissolve district

(a)(1) After all bonds or other evidences of indebtedness, plus all interest on them, shall have been paid in full, then a district may, by unanimous vote of the members of the board, be dissolved and all further levies and assessments cancelled, the members of the board relieved from further duties, and the surplus funds of the district distributed in accordance with the procedures set forth in subsection (b) of this section.

(2) The districts are authorized, at the discretion of the respective boards, to enter into repair and maintenance agreements and to expend funds of the districts for these purposes.

(b)(1) In the event that the board shall vote to dissolve a district under subsection (a) of this section, the board shall convert all assets into cash and shall first pay from the surplus funds all debts of the district, including any reasonable legal and other expenses incurred in connection with the dissolution.

(2)(A) The board shall then refund all remaining funds of the district pro rata to the property owners who hold title to the property in the district at the time the refund is made.

(B)(i) The pro rata refund to the property owners shall be made on the basis of the most recent assessment or reassessment of benefits on the parcel of property prior to dissolution and shall be in the same proportion.

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§ 14-94-126

LOCAL GOVERNMENT

that the assessed benefits of each individual parcel of property bears to the total of the assessed benefits of all the property in the district.

(ii) No property or owner whose property is delinquent in any sum for district assessments, penalties, or interest at the time the refund is made shall be counted in calculating the pro rata distribution or receive any portion of the refund.

(C) Within ninety (90) days after the distribution of surplus funds has been completed, the board shall file a copy of the resolution of dissolution and a financial statement of the district, verified by all members of the board, in the office of the clerk of the municipality in which the district was established.

Acts of 1987, Act 113, § 17.

Library References

Municipal Corporations § 313.
Westlaw Key Number Search: 268K313.
C.J.S. Municipal Corporations § 1009.

§ 14-94-127. Preliminary expenses

If for any reason the improvement contemplated by any district organized under this chapter is not made, the preliminary expense shall be a first lien upon all the real property in the district and shall be paid by a levy of a tax on it. The levy shall be made by the chancery court of the county and shall be collected by a receiver to be appointed by the court.

Acts of 1987, Act 113, § 20.

Library References

Municipal Corporations § 412. C.J.S. Municipal Corporations §§ 1129 to 1130.
Westlaw Key Number Search: 268K412.

Research References

Treatises and Practice Aids
74 BNA Daily Report for Executives K-8, 1998.
74 BNA Daily Tax Report K-8, 1998.

Notes of Decisions

Validity 1

1. **Validity**
Statute giving chancery court legislative discretion in determining method to assess and levy tax against real property in improvement district in amount sufficient to pay judgment, interest, costs, and attorney's fees relating to an abandoned agreement for improvements made with the district was unconstitutional delegation of legislative taxing power in violation of separation of powers provisions of Constitution; absence of "magic language" directing chancery court to use particular method for computing tax levy gave judiciary nondelegable power of legislature. Const. Art. 4, §§ 1, 2; A.C.A. § 14-94-127. Robert D. Holloway, Inc. v. Pine Ridge Addition Residential Property Owners, 1998, 332 Ark. 450, 966 S.W.2d 241. Constitutional Law § 61; Taxation § 28.

§ 14-94-128. Continuation of district

If the petition for formation of the district provides therefor or the owners of real property in the district agree thereto, a district shall not cease to exist upon

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MUNICIPAL PROPERTY OWNERS' IMPROVEMENTS § 14-94-128

the acquiring, construction, or completion of the improvement, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvement, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in this chapter. To this end, the board may, from time to time, make such additional levies based upon the assessment of benefits as may be necessary for such purposes. However, the amount of the total levies shall not exceed the assessed benefits and interest thereon.

Acts of 1987, Act 113, § 17.

Library References

Municipal Corporations § 514(1). C.J.S. Municipal Corporations §§ 1366 to 1367, 1371, 1375.
Westlaw Key Number Search: 268K514(1).

659

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: May 23, 2006

Subject: Request for approval to increase height of East Square Development PZD (C-PZD 05-1610)

RECOMMENDATION

Planning staff has recommended denial of a requested administrative approval to increase the building height of the proposed hotel/condo/retail building known as East Square Development Planned Zoning District. It is within the ability of the Zoning and Development Administrator to approve a Minor Modification to an approved Planned Zoning District maximum building height if the request falls within 20% of the originally approved height; this request does meet the criteria of a Minor Modification. However, at this time, staff finds the request to be substantial in nature, especially with regard to height, and hereby recommends this item be considered by the City Council for a final decision.

BACKGROUND

The Planned Zoning District ordinance for this project was approved by the City Council in December of 2005. The project proposed a 16-story mixed-use project, consisting of 147 hotel rooms, 25 condominiums, restaurant, retail and meeting space. At that time, the applicant elected not to utilize the newly adopted PZD ordinance Master Development Criteria, due to the fact the project had been submitted under the previous ordinance. The previous ordinance did not allow for administrative approvals; rather, the project passed by the City Council was the one expected to be built, with changes to zoning only allowed by returning to the City Council for consideration. The current PZD ordinance does allow administrative approvals of minor modifications to a PZD, subject to certain criteria. For increases in height, the request must be within 20% of the original height established with the associated PZD project. The applicant states a need for 53 additional hotel rooms in order to attract a certain hotel, citing market forces. In order to accommodate this request, instead of utilizing existing space within the hotel, the applicant has requested an additional two (2) floors, for a total of eighteen (18). In this case, an additional two stories in height as compared to the 16 stories approved is a 13% increase, which does meet the threshold for administrative approval. However, because the ordinance under which this project was approved did not allow for such modifications, staff finds it appropriate to be reviewed by the City Council, as opposed to administrative approval.

DISCUSSION

The following supporting documents, among others, may be found in the attached packet:

- I. Letter of Request from applicant for City Council consideration of adding two (2) additional floors to the approved C-PZD 05-1610 for East Square Development, for an 18-story height.
- II. Letter and parking charts detailing the proposed parking ratios for the project
- III. Letters between the applicant and staff regarding the administrative approval
- IV. Copy of approved ordinance (No. 4804), with attached conditions of approval
- V. Reduced copy of approved site plan

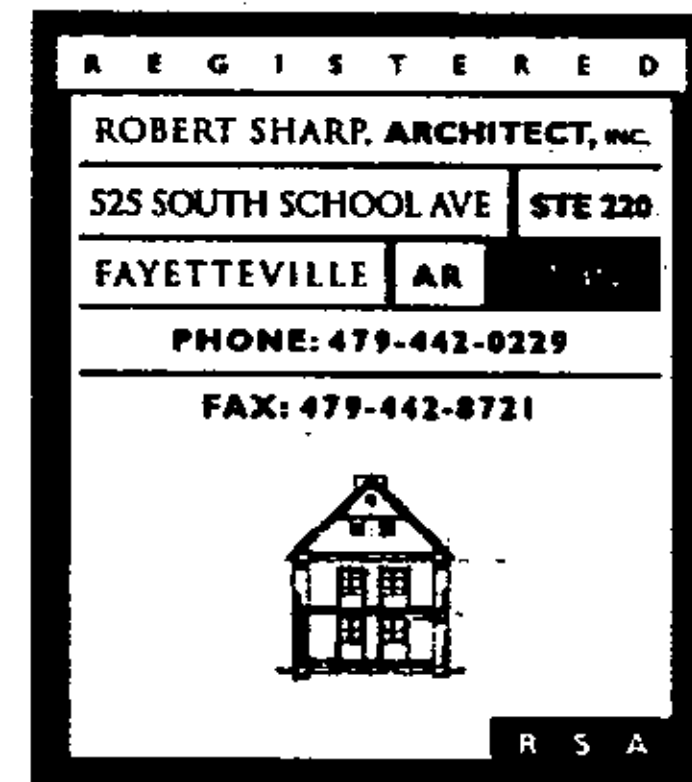
BUDGET IMPACT

None.

May 22, 2006

Jeremy Pate, Director of Current Planning
City of Fayetteville
113 West Mountain Street
Fayetteville Arkansas

**RE: ADDITIONAL TWO FLOORS,
EAST SQUARE PROJECT**



Dear Jeremy,

The East Square redevelopment project was approved by the city Council on December 20, 2005 as a Planned Zoning District. This project was brought forward as a PZD rather than as a LSD under the C4 zoning for two reasons: First due to the difficulty of constructing the parking structure on a site that was limited by historic building and the programmatic requirements of a first class commercial hotel and convention center. Second, the residential condominiums are a conditional use under the C4 zoning. Therefore the parking structure and the residential condominium units combined to lead us to the PZD process.

We did not utilize the PZD process as a way to gain additional height. As you know, the C4 zone has no height limit. Another factor that has contributed to the ultimate height of the building is my client's willingness to locate the tallest part of the project as far away from the historic square and the historic Washington County Courthouse as possible. This decision to preserve views to these sensitive areas, as well as their decision to preserve the existing historic buildings have resulted in the limited footprint of the hotel. Market forces have dictated that another 53 rooms be added in order for the hotel to have every chance for economic success.

We ask that you consider the following items when making your recommendation to the City Council:

1. The additional two floors will not exceed the current height of C4 zoning.
2. The PZD was utilized to enable the residential units and the parking deck, not the hotel tower.
3. This site has been slated for renewal and redevelopment after a long dismal history of economic failure. Market forces are a key aspect of this project.

Experts in the hospitality field have told us that increased private investment in the form of 53 additional rooms is called for. We ask for a similar commitment from the City of Fayetteville.

4. Much of the recent controversy over height is related to preserving views of Old Main and the historic and unique character of Dickson Street, neither of which is at issue here.
5. One of the benefits of the PZD process is flexibility. My client should not be in the situation of having his development rights reduced as a consequence of his agreeing to meeting the higher standards of PZD development. In essence, he has agreed to spend additional monies on the façade of the parking structure, and has committed to using historically appropriate materials on the hotel tower. In addition, he has agreed to preserve existing historic buildings that contribute to the fabric of the neighborhood.
6. The 2020 plan and the Downtown Master Plan both urge revitalization of the downtown area and the development of this site in particular. We feel we can better meet these goals with the addition of 53 rooms.
7. This building represents a transition from the 1970s zoning that envisioned unlimited height in the downtown area and the new lower slung city proposed by the Downtown Master Plan. While my clients and I welcome many aspects of the proposed Downtown Master Plan, we feel that we are not able to look to it for definitive guidance until it is subject to final citizen input, thoroughly reviewed by the Aldermen, and passed into law.

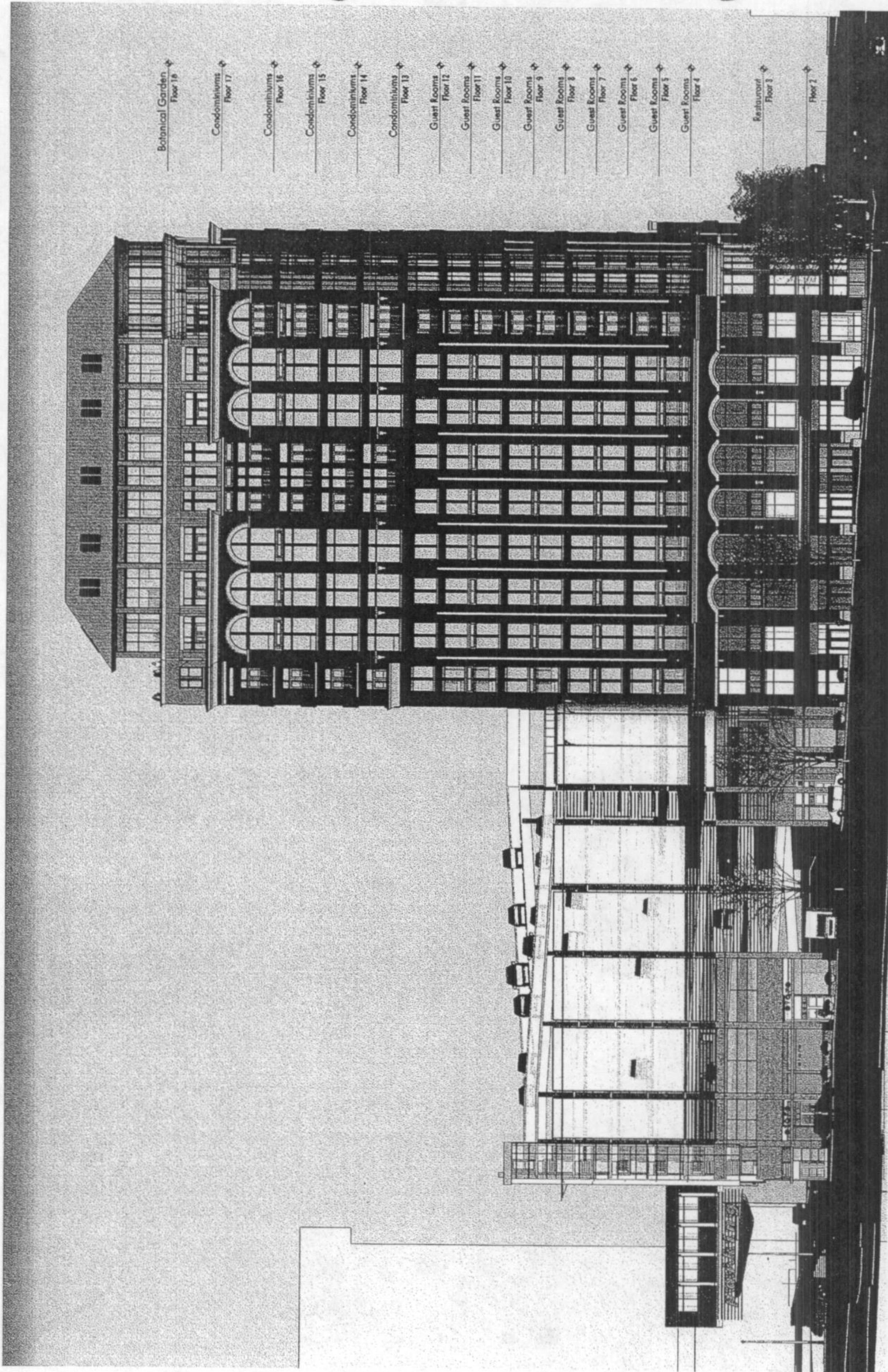
For the above reasons, I ask for your support in amending PZD 05-1610. I strongly feel that the benefits that this project represents to the City of Fayetteville are enormous.

Sincerely,



Robert Sharp, Architect

cc: Richard Alexander
File



- Botanical Garden Floor 16
- Condominiums Floor 17
- Condominiums Floor 18
- Condominiums Floor 15
- Condominiums Floor 14
- Condominiums Floor 13
- Guest Rooms Floor 12
- Guest Rooms Floor 11
- Guest Rooms Floor 10
- Guest Rooms Floor 9
- Guest Rooms Floor 8
- Guest Rooms Floor 7
- Guest Rooms Floor 6
- Guest Rooms Floor 5
- Guest Rooms Floor 4
- Restaurant Floor 3
- Floor 2

Figure 1: South Elevation

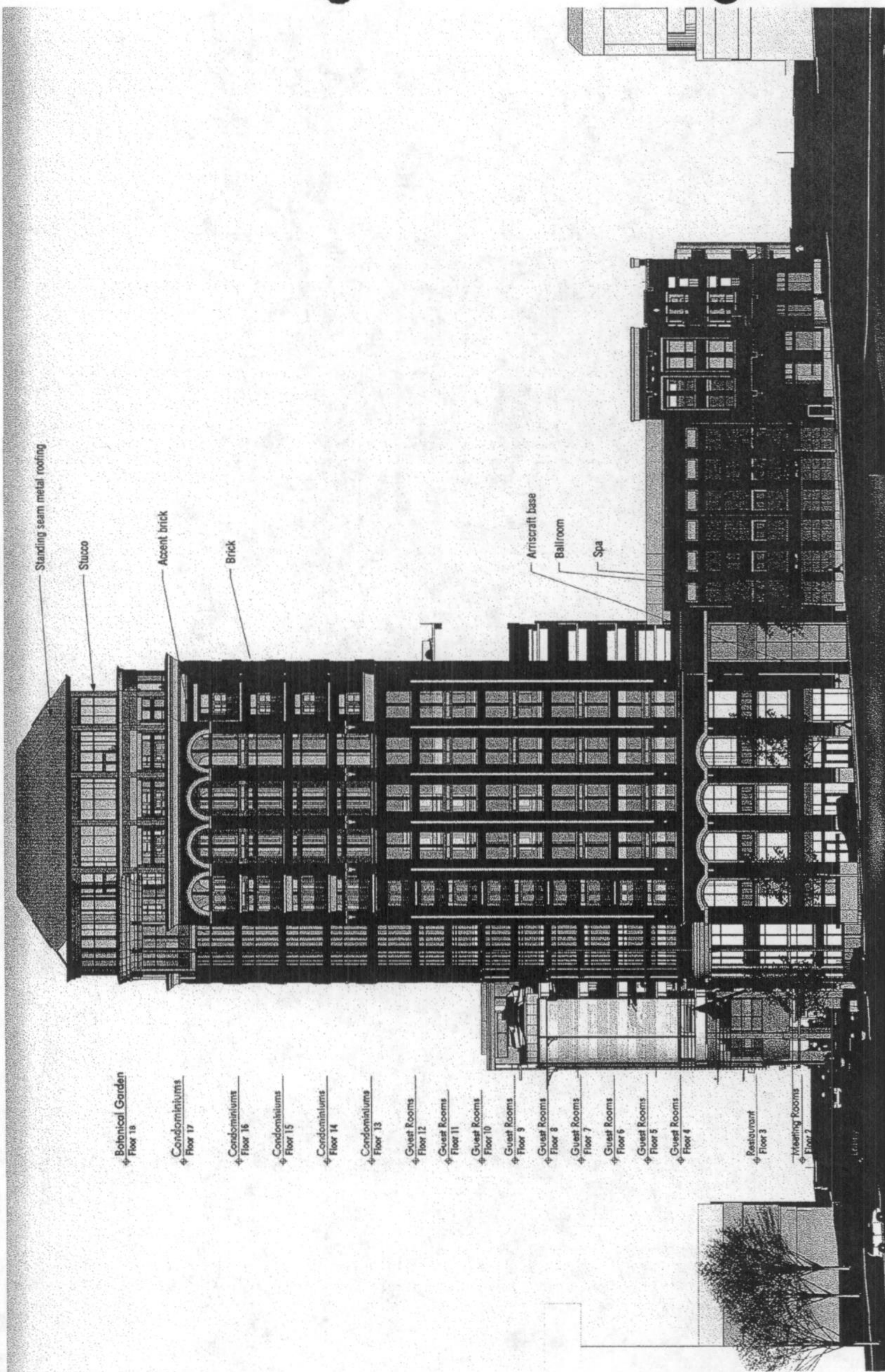


Figure 2: East Elevation

East Square Development Project

RESOLUTION NO. _____

**AN RESOLUTION TO GRANT THE APPEAL OF EAST
SQUARE DEVELOPERS TO ADD TWO FLOORS OF
HOTEL ROOMS AS A MINOR MODIFICATION
OF C-PZD 05-1610**

WHEREAS, the City Council approved C-PZD 05-1610 East Square Development on December 20, 2005 to replace the former blighted Mountain Inn and three other vacant and deteriorating structures; and

WHEREAS, a prestigious hotel chain will establish a luxury hotel in the building if two more floors of hotel rooms are permitted to be constructed; and

WHEREAS, East Square Developers have requested that their building be allowed two additional stories of hotel rooms identical to the already permitted hotel room stories as a "Minor Modification" of C-PZD 05-1610, pursuant to §166.06 (I)(1) of the Unified Development Code; and

WHEREAS, East Square Developers have a right to appeal the Zoning and Development Administrator's decision not to approve these two additional stories as a "Minor Modification"; and

WHEREAS, allowing two additional floors at this site on College Avenue near other large downtown buildings is appropriate, will further enhance surrounding commercial and office structures, and is compatible with all the reasons that justified the original request for a sixteen story building.

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 grants the appeal and approves the developers' request to allow construction of two additional floors of hotel rooms that will be identical in outward appearance to the other floors of hotel rooms so that the total authorized height shall be eighteen stories as a Minor Modification of C-PZD 05-1610. All other terms, conditions, requirements and plans for C-PZD 05-1610 shall remain unaltered and in full force and effect.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

TITLE XV UNIFIED DEVELOPMENT CODE

(I) Amendments to the PZD Master Development Plan.

The Zoning and Development Administrator shall determine whether an amendment request shall be considered a minor modification or a PZD City Council rezoning based on the criteria established herein. The applicant may appeal the Zoning and Development Administrator's decision to deny an administrative modification within 10 working days of said decision to the City Council, in writing.

(1) Minor Modification - Criteria

An amendment request may be considered as an administrative minor modification if it meets the following criteria:

- (a) Building Setbacks -An increase or decrease of the required building setback when such modification is no more than a 20% change to the originally approved setback.
- (b) Minimum Lot Size -An increase or decrease of the minimum lot size when such modification is no more than a 20% change to the originally approved minimum lot size.
- (c) Building Height -An increase or decrease of the building height when such modification is no more than a 20% change to the originally approved maximum building height.
- (d) Increased Number of Dwelling Units -An increase of the number of dwelling units in a planning area of 20% or less. Such increase shall be accompanied by a corresponding decrease in dwelling units in another planning area located within the same approved PZD Master Development Plan.
- (e) Decreased Number of Dwelling Units -A decrease of the number of dwelling units in a planning area up to 20%. Such decrease shall result in a net loss of dwelling units unless these units are concurrently approved as an increase of units in another planning area.
- (f) Commercial/Non-residential Development Intensity An increase or decrease of the square footage of development intensity when such modification is no more than a 20% change to the originally approved development intensity.
- (g) Text Changes -Insubstantial changes to the text, as determined by the Zoning

and Development Administrator, to add clarity, when such changes do not change the commitments.

- (h) Street Alignment -The Zoning and Development Administrator upon review by the City Engineer shall determine whether an insignificant shift in the alignment of a street shall be considered as a minor modification.

- (2) City Council Approval. Rezoning through the PZD process is required to modify any aspect of the PZD which is not allowed under the Minor Modification process. A planning area within a Master Development Plan may be amended separately from the remainder of the approved master development plan with City Council approval.

- (J) Phasing. Phasing of a PZD master development plan may vary from the requirements of Chapter 166 of the UDC with regard to the expiration of permits and plans only when phasing has been identified, described, and approved as part of the PZD master development plan process.

- (K) Development standards, conditions and review guidelines

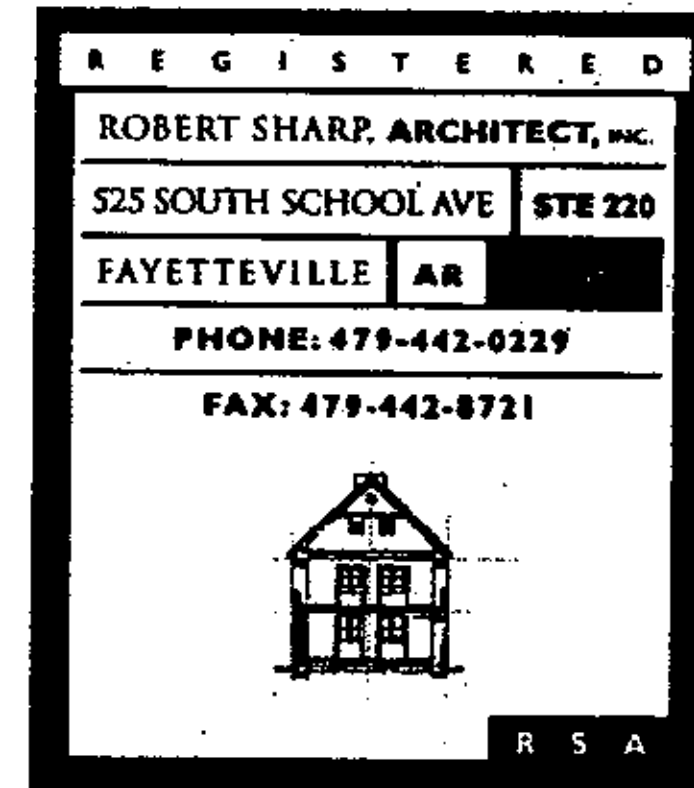
- (1) Generally. The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed 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.

- (2) Screening and landscaping. In order to enhance the integrity and attractiveness of the development, and when deemed

May 22, 2006

Jeremy Pate, Director of Current Planning
City of Fayetteville
113 West Mountain Street
Fayetteville Arkansas

**RE: PARKING REQUIREMENTS FOR
ADDITIONAL ROOMS, EAST SQUARE PROJECT**



Dear Jeremy,

Richard Alexander forwarded your letter of May 18, 2006. In that letter you addressed the parking loads of an additional 53 rooms at the East Square/Mountain Inn project. In that letter you requested further study of the parking loads required by ordinance. I have researched this issue and concluded that we are required to provide 280.53 parking stalls (including the extra 53 hotel rooms) and we are providing 348 parking stalls. Please see the attached tables showing our updated calculations. The major difference between the previous and current parking load calculations is the addition of the Juvenile Courts Building and the Niblock Law Firm under 172.05 (A) (3) *Building Footprint Waiver in C3 and C4* and the 25% reduction for accessory uses in a hotel under 172.05 Table 3. Another difference is the revised number of residential condominium bedrooms and the addition of the 53 hotel rooms.

These updated parking calculations demonstrate that our client is able to fulfill the parking requirements of the additional rooms under the terms of the UDO, and therefore the parking should not be a reason to limit the addition of the requested 53 rooms.

Please call, write, or e-mail me if you disagree with my interpretation of the parking requirements for this project.

Sincerely,


Robert Sharp, Architect

Enclosures: *East Square Development Use Type Parking Calculations, November 17, 2006*
Mountain Inn (Demolished) Use Type Parking Calculations, November 17, 2006
East Square Development Use Type Parking Calculations, May 22, 2006
East Square Prior Structures (Demolished), May 22, 2006

cc: Richard Alexander
John Nock
File

MAY 22, 2006
EAST SQUARE DEVELOPMENT USE TYPE PARKING CALCULATIONS

USE TYPE	QUANTITY/S.F.	RATIO	FACTOR	TOTAL PARKING	ACCESSORY HOTEL USES LESS 25%*
HOTEL ROOMS	200 ROOMS	1:01	1	200	200
CONDOMINIUMS, CENTER ST.	2 UNITS	1/BR	2	4	4
CONDOMINIUMS, HOTEL TOWER	40 BEDROOMS	1/BR	1	40	40
1ST FLOOR					
PARKING GARAGE RETAIL	5,158	1:250	1/250	20.6	20.6
BRASS MONKEY BAR	2,430	1:50	1/50	48.6	36.45*
LOBBY RETAIL	350	1:250	1/250	1.4	1*
2ND FLOOR					
RESTAURANT AND KITCHEN	6,303	1:100	1/100	63	47.29*
PRIVATE DINING/MEETING	665	1:100	1/100	6.7	5*
RETAIL AREA	1,540	1:250	1/250	6.2	4.62*
SPA/SALON	4,050	1:250	1/250	16.2	12.15*
3RD FLOOR					
BALLROOM	4,780	1:50	1/50	95.6	71.7*
MEETING SPACE	411 OCCUPANCY	1:4	1/4	102.8	77.1*
16TH FLOOR					
MEETING SPACE	255 OCCUPANCY	1:4	1/4	63.8	47.85*
SUBTOTAL					567.76
LESS PARKING CREDIT FOR SHORTAGE OF PRIOR STRUCTURE					-167.00
REQUIRED PARKING SUBTOTAL					400.76
LESS 30%					-120.23
TOTAL PARKING REQUIRED					280.53
ON SITE PARKING PROVIDED					348
PARKING OVERAGE					67.47

EAST SQUARE PRIOR STRUCTURES (DEMOLISHED)
 USE TYPE PARKING CALCULATIONS

USE TYPE	QUANTITY/SF.	RATIO	FACTOR	CALCULATED TOTAL PARKING
HOTEL ROOMS	64 ROOMS	1:01	1	64
RETAIL, 1ST FL.	2,012	1:250	1/250	8.1
ARCADE 3 FLS.	18,375	1:300	1/300	61.25
MEETING, 2ND FL.	50.67 OCC.	1:04	1/4	12.67
BANQUET, 2ND FL.	2,205	1:50	1/50	44.1
RESTAURANT, 2ND FL.	1,267	1:100	1/100	12.67
RED BIRD CAFE	1,096	1:100	1/100	11
JUVENILE COURTS	14,860	1:300	1/300	49.53
NIBLOCK LAW FIRM	5,000	1:300	1/300	16.67
REQUIRED PARKING TOTAL				280
AVAILABLE PARKING IN DEMOLISHED GARAGE				113
TOTAL SHORTAGE PER EXISTING REQUIREMENTS				167

NOTES:

MEETING SPACES: OCCUPANCY FOR ASSEMBLY BASED ON
 'UNCONCENTRATED' AT A 15 NET 2ND FLOOR 760 GROSS SF/15
 =50.67 OCCUPANCY
 BANQUET SPACE: BASED ON 'DANCEHALL, BAR/TAVERN' CLASSIFICATION
 DEMOLISHED PARKING GARAGE: 5 FLOORS PLUS BASEMENT AND
 ROOFTOP; 113 PARKING STALLS ESTIMATED

MOUNTAIN INN (DEMOLISHED) USE TYPE PARKING CALCULATIONS				
USE TYPE	QUANTITY/S.F.	RATIO	FACTOR	CALCULATED TOTAL PARKING
HOTEL ROOMS	64 ROOMS	1:01	1	64
RETAIL, 1ST FL.	2,012	1:250	1/250	8.1
ARCADE 3 FLS.	18,375	1:300	1/300	61.25
MEETING, 2ND FL.	50.67 OCC.	1:04	1/4	12.67
BANQUET, 2ND FL.	2,205	1:50	1/50	44.1
RESTAURANT, 2ND FL.	1,267	1:100	1/100	12.67
RED BUD CAFE	1,096	1:100	1/100	11
REQUIRED PARKING TOTAL				213.79
AVAILABLE PARKING IN DEMOLISHED GARAGE				113
TOTAL SHORTAGE PER EXISTING REQUIREMENTS				101
NOTES:				
MEETING SPACES: OCCUPANCY FOR ASSEMBLY BASED ON 'UNCONCENTRATED' AT A 15 NET 2ND FLOOR 760 GROSS SF/15 =50.67 OCCUPANCY				
BANQUET SPACE: BASED ON 'DANCEHALL, BAR/TAVERN' CLASSIFICATION				
DEMOLISHED PARKING GARAGE: 5 FLOORS PLUS BASEMENT AND ROOFTOP; 113 PARKING STALLS ESTIMATED				

EAST SQUARE DEVELOPMENT USE TYPE PARKING CALCULATIONS				
USE TYPE	QUANTITY/S.F.	RATIO	FACTOR	CALCULATED TOTAL PARKING
CONDOS, CENTER ST.	3	1/BR.	2	6
RETAIL, CENTER ST.	938	1:250	1/250	3.75
HOTEL ROOMS	147 ROOMS	1:01	1	147
CONDOMINIUMS	22 ROOMS	1/BR.	2	44
BAR, 1ST FL.	552	1:50	1/50	11
RETAIL, 1ST FL.	6,470	1:250	1/250	25.88
MEETING, 2ND FL.	286 OCCP.	1:04	1/4	71.5
MEETING, 3RD, FL.	130 OCCP.	1:04	1/4	32.5
BALLROOM, 3RD FL.	6,140	1:50	1/50	122.8
RESTAURANT, 3RD FL.	6,215	1:100	1/100	62.15
SUBTOTAL				526.6
LESS PARKING SHORTAGE OF PRIOR STRUCTURE				101
REQUIRED PARKING SUBTOTAL				425.6
LESS 30%				127.7
TOTAL				298
PARKING STALLS PROVIDED				350
12 PARKING STALLS WILL BE DEDICATED TO SERVE THE CONDOMINIUMS IN THE BANK OF AMERICA.				
NOTES:				
RESTAURANT GROSS SF:				
DINING	3,708			
PRIVATE DINING	858			
KITCHEN	1,208			
SERVERY	441			
	6,215			
MEETING SPACES: OCCUPANCY OR ASSEMBLY BASED UPON 'UNCONCENTRATED' AT A 15 NET				
2ND FLOOR 4,283 GROSS SF/15=285.5 OCCUPANCY				
3RD FLOOR 1,950 GROSS SF/15=130 OCCUPANCY				
BALLROOM AND LOBBY BAR: BASED ON 'DANCEHALL, BAR/TAVERN' CLASSIFICATION; BAR 552 SF IS COMPRISED OF OPEN SPACE WITHIN THE HOTEL LOBBY				
PROPOSED PARKING GARAGE: 7-1/2 FLOORS; 133,316 SF; 350 PARKING STALLS				



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

23 May 2006

Mr. Richard Alexander
East Square Development Co., LLC
11 N. West Avenue
Fayetteville, AR 72701

Re: Renaissance Tower/Mountain Inn Project

Dear Mr. Alexander,

I have reviewed the letter faxed to my office and received on May 22, 2006, requesting a review of new parking calculations and a reconsideration of my decision to not administratively approve the two additional stories in height to the proposed building. Please allow the following to serve as answers to your requests.

Parking: I have spoken at length with your architect's office, Rob Sharp Architects, in reviewing the parking calculations; while some uses have changed or been reorganized since the original PZD approval due to more refinement in floor/construction plans, the ratios provided do indicate that the 348 parking spaces that are proposed to be provided on-site will meet the ordinance requirement, utilizing the credit for pre-existing structures' parking deficiencies as allowed in the C-4 district, the 25% less ratio for hotel accessory uses and 30% less than that, as permitted by the Unified Development Code, Ch. 172 *Parking and Loading*. It is my finding that the parking as presented does meet the requirements of the Unified Development Code.

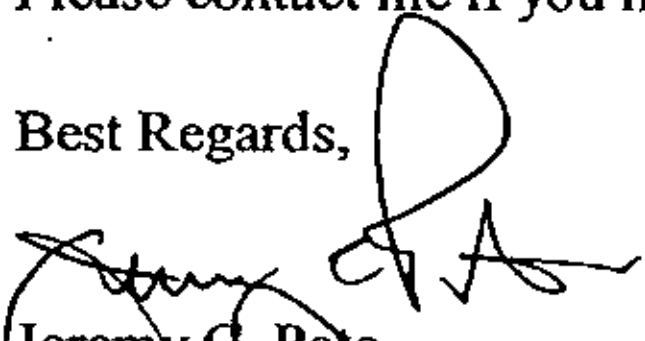
Administrative Approval: You are correct in your assertion that nothing in our current code would limit the Zoning and Development Administrator's ability to grant the request to add two additional floors to the 16-story Renaissance Tower/Mountain Inn Project, for a total of eighteen floors. While that decision could be appealed to the Planning Commission or City Council, the ordinance as it exists allows for administrative approval of an increase in height to a building of 20% or less. However, as mentioned in the previous letter, I feel that while this request does meet the criteria of a "Minor Modification," in that it falls within the 20% change, I also find that this particular request is more appropriately reviewed by the City Council. At the time this project was processed for approval, the applicant chose to proceed forward under the rules of the previous Planned Zoning District Ordinance. The previous ordinance did not allow for administrative approvals, therefore

under that established criteria, the City Council approved a Planned Zoning District with the understanding that nothing in terms of zoning or development would change without their revisiting it. It is my finding that this particular change justifies a City Council resolution, as opposed to an administrative approval.

I have just now (4pm) received a letter from Rob Sharp's office requesting this item be placed before the City Council for their consideration. I will be happy to forward the submitted materials to the City Clerk's office in order to place this request on the City Council's agenda.

Please contact me if you have any further questions.

Best Regards,



Jeremy C. Pate
Director of Current Planning

Alexander Merry-Ship & Alt

Real Estate Group, Inc.
Real Estate Sales, Development
and Property Management

Richard Alexander, President
Rob Merry-Ship, Sr. Vice President

Sherree Alt, Sr. Vice President, Principal Broker
Jennifer Ellison, Business Manager

May 22, 2006

VIA FACSIMILE TO (479) 575-8202

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

RE: Renaissance Tower/Mountain Inn Project

Dear Mr. Pate:

Please allow this letter to serve as our formal request for you to reconsider your letter to me of May 18, 2006 regarding our request for administrative approval of the addition of two floors to the Renaissance Tower/Mountain Inn project.

Upon receipt of your letter I discussed our parking situation with our architect, Rob Sharp and asked him to work through the calculations concerning our current onsite parking. Please find attached parking calculations for the project as prepared by Mr. Sharp's office. As you can see from Mr. Sharp's calculations, our parking requirements are 280.53 spaces utilizing the current code and we are providing 348 spaces onsite.

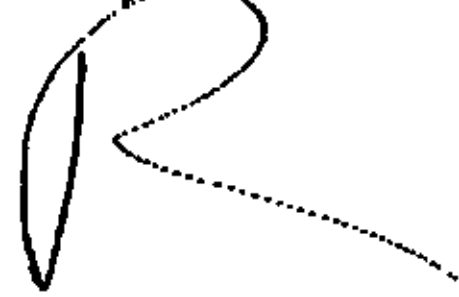
With regard to your interpretation of the unified development code, I would respectfully add that I have reviewed the code and there is nothing in the current code that would limit the zoning and development administrator from granting our request since we are asking only for two additional floors on a sixteen-floor project. The code specifically allows for the development administrator to grant "minor modifications" including, specifically, an increase or decrease in the building height, which modification is no more than a 20% change in the originally approved maximum building height. In this case, we are asking for a 13% change. I have reviewed the prior ordinance in effect at the time our project was approved and could find nothing in that ordinance that prohibits the city council from adopting subsequent ordinances to govern changes to approved projects such as the one requested nor is there anything in the new ordinance that would prohibit the zoning or development administrator from applying existing ordinances to a previously approved planned zoning development.

Also, and as you know, we specifically did not request a waiver of the ninety-day moratorium in order to allow what public comment might have come. I have personally been aware of no negative comments from the city council despite the fact that our request was public information widely known to council members in that it was the subject of several articles in most of the local newspapers.

As for the changes recently enacted by the city council I do not believe they affect our project in that those changes as I understand it with respect to height limitations were specifically limited to areas of C-3 zoning. Our project, aside from being a planned zoning development, is not in a C-3 zoning area nor has it ever been in a C-3 zoning area. It has been, as long as I can remember, a C-4 zoning classification. Again, the city council specifically did not impose in the past or recently any height limitations in C-4 commercial areas.

Of course, the timing of this request is very important to us. We are putting our negotiations with our franchisor, Marriott, on hold, pending the outcome of this request. They have strongly urged us to seek this change and any delay is of paramount concern to us. In conclusion therefore I believe that we have more than adequate parking to satisfy our needs assuming that we are approved for the additional two floors and in light of the fact that the present ordinances specifically allow you to grant our request; I respectfully request that you reconsider and do so. If you are unable to grant our request because you do not believe you have the authority, rather than deny our request we would ask that you forward our request to the city council for approval pursuant to subsection (i)(2) of the code. Obviously, in light of the information supplied I would also request that you might include your recommendation for approval of our request to the city council. If, prior to making a ruling you should need any other information or would like to meet with us regarding our request please do not hesitate to contact me at the above number.

Sincerely,



Richard P. Alexander

RPA/jdc

Enclosure



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

18 May 2006

Mr. Richard Alexander
East Square Development Co., LLC
11 N. West Avenue
Fayetteville, AR 72701

Re: Renaissance Tower/Mountain Inn Project

Dear Mr. Alexander,

The Unified Development Code, under Section §166.06 (I) *Amendments to the PZD Master Development Plan*, gives the Zoning and Development Administrator the authority to determine whether a requested amendment to an approved Planned Zoning District is to be considered a minor modification or a rezoning to be considered by the City Council. There are certain criteria identified under this section that the Zoning and Development Administrator may consider a request to determine if an amendment can be approved administratively. If the amendment request falls within the set criteria and the Zoning and Development Administrator approves the request, no further action is needed. If the Zoning and Development Administrator does not approve the request, the applicant may appeal the decision to deny an administrative modification within ten (10) working days of the decision to the City Council, in writing.

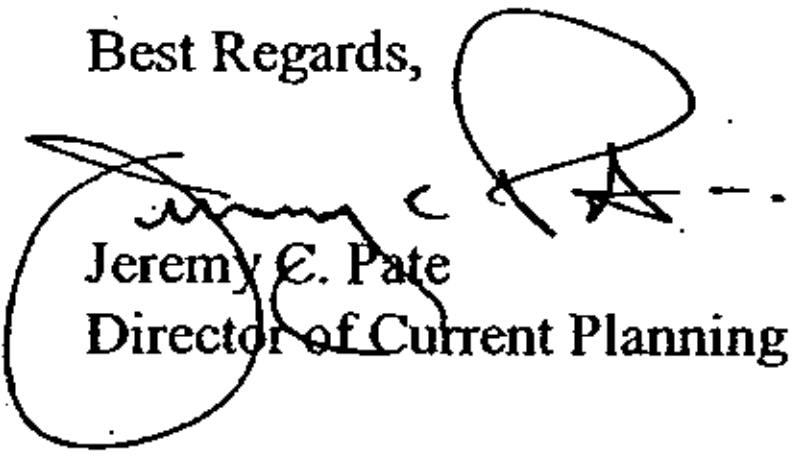
The letter dated March 06, 2006 regarding this project requests an administrative approval of additional building height and square feet of nonresidential space to the East Square Development/Mountain Inn project, above that which was approved by the City Council in C-PZD 05-1610. The request is to increase the number of hotel rooms from 147 rooms to 200 rooms, and from a height of 16 stories to 18 stories. As noted in the letter, the increase in room results in an increased parking need, which is not proposed to be added to this property; rather, an informal proposal has been made to use an existing off-site 60-space parking lot to accommodate the additional parking demand generated by the additional hotel rooms.

At this time, I can not support your request for administrative approval. This project was processed prior to the current Planned Zoning District ordinance being adopted. At that time, any modification to an approved Planned Zoning District was required to return for consideration by the City Council. Because amendments to this project were not anticipated when the City

Council, the legislative body that adopted the ordinance rezoning on this property, allowing the development and all of the associated waivers and variances, it is my opinion that it should be the City Council that considers amendments to height and increase in building area for this specific project. I do have concerns administratively increasing the building height an additional two stories, especially in the context of recent City Council directives in both ordinance and policy form regarding building height within the City of Fayetteville. Furthermore, the concern regarding the parking is one that I do not feel that I have the ability to administratively approve. The current Unified Development Code requires Conditional Use approval by the Planning Commission when off-site parking is proposed to meet the parking demand generated by a development that can not provide sufficient parking on-site. With an addition of 53 hotel rooms, 53 spaces are also required to be provided on-site. If the parking proposed on the site can be proven to meet the demand of that which is proposed, plus the additional 53 hotel rooms, this may be a moot issue. However, at this time, these calculations have not been provided. Additional information regarding the square feet of existing space and square feet of proposed space would also be helpful.

As mentioned before, if you wish to appeal this decision to deny the administrative appeal request, you must do so in writing to the City Clerk's office within ten (10) business days of this date. Please feel free to contact me with any questions or concerns.

Best Regards,



Jeremy E. Pate
Director of Current Planning

East Square Development Co., LLC
11 N. West Ave.
Fayetteville, AR 72701
Phone 479.521.9188 Fax 479.521.1899

March 6, 2006

Jeremy Pate
Planning Director
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Renaissance Tower/Mountain Inn Project

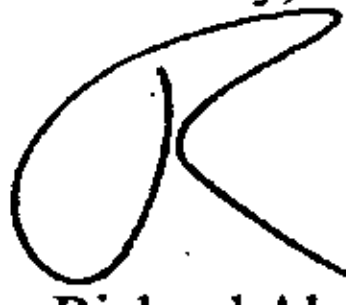
Dear Jeremy,

Pursuant to our recent conversations please allow this letter to serve as East Square Development Co. LLC's formal request to seek administrative approval to add two floors to the Renaissance Tower/Mountain Inn hotel project. As I stated to you earlier, we have been having extensive and ongoing negotiations with our proposed hotel franchisor. After many weeks of discussion and review of our proposed hotel project, our franchisor has requested in the strongest possible terms, that we increase our room count to 200 rooms in order, in their opinion, to enhance our overall economic feasibility, and therefore final approval of our franchise application. Of course, a franchise agreement is of paramount importance to our lenders and investors, and could determine the success of the project.

It is my understanding of current city ordinances and regulations that the Planning Director has the ability to administratively approve a change of not more than 20% in an approved PZD project. Due to site and area restrictions, the additional room count can only be achieved in this instance by the addition of the requested two floors to the already approved 16-floor structure, making a total of 18 floors, or a change of approximately 13%. As I also stated to you, time is of the essence, in that we have a contract with the City, which calls for completion of the project by September 2007. The urgency of course is that the addition of the two floors will necessitate a redesign of the foundation, structure, mechanical, electrical, and plumbing components to name a few, which if not started immediately will delay all other aspects of the project. Also, and as previously stated, to the extent that our request results in an increased parking requirement, our group has access to a 60 plus space parking lot at the corner of Rock and Church Streets, which can be dedicated to this project, and we will be glad to deliver such documents, as

you require, evidencing the commitment of those spaces to the project and/or other suitable spaces.

Sincerely,

A handwritten signature in black ink, appearing to be 'Richard Alexander', written in a cursive style.

Richard Alexander
Managing Member
East Square Development Co., LLC

ORDINANCE NO. 4804

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 05-1610, EAST SQUARE DEVELOPMENT, LOCATED AT THE NORTHWEST CORNER OF MOUNTAIN STREET AND COLLEGE AVENUE, CONTAINING APPROXIMATELY 1.01 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; WAIVING ANY POSSIBLY CONFLICTING DEVELOPMENT ORDINANCES; AND ADOPTING THE ASSOCIATED PLANNED ZONING DISTRICT

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-4, Downtown Commercial, to C-PZD 05-1610 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 development standards as shown on the Planned Zoning District's plans, all conditions of approval determined appropriate and approved by the Planning Commission on November 14, 2005, and the City Council.

Section 3: That the City Council hereby expressly waives any development ordinances that might be in conflict with C-PZD 05-1610 including but not limited to §166.12 *Structures not allowed over public utility easements* and §166.18 *Master Street Plan Setbacks*, and approves the development proposal as presented herein.

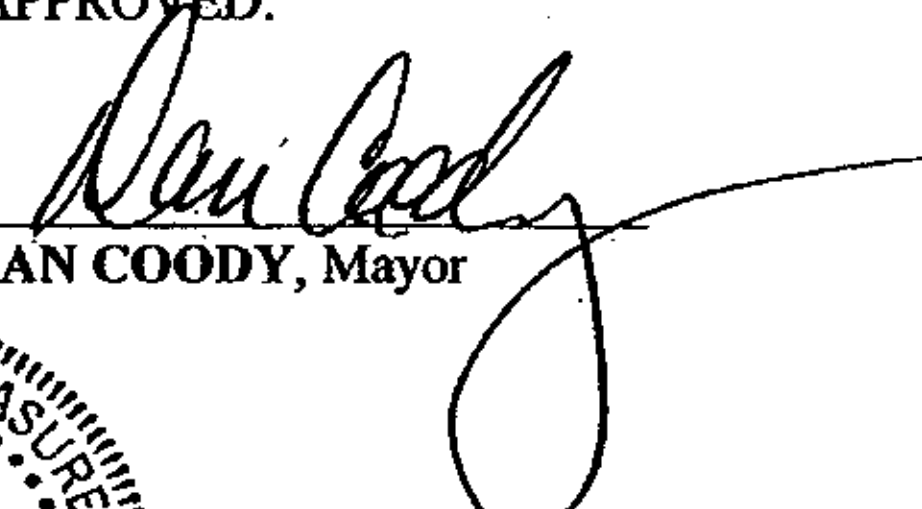
Section 4: That this ordinance shall take effect and be in full force at such time as all of the requirements of the development plan have been met.

Section 5: 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 20th day of December, 2005.

APPROVED:

By:


DAN COODY, Mayor

By:


SONDRA SMITH, City Clerk



EXHIBIT "A"
C-PZD 05-1610

LEGAL DESCRIPTION - TRACT 5

ALL OF LOT ONE (1), LOT TWO (2), AND A PART OF LOT THREE (3), LOT SIXTEEN (16), AND 11 OF LOT SEVENTEEN (17), LOT EIGHTEEN (18), LOT NINETEEN (19), AND A PART OF THE 10-FOOT EAST-WEST ALLEY OF BLOCK TWENTY-EIGHT (28) ORIGINAL TOWN PLAT FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT NINETEEN (19), THENCE N 87°22'33" W - 151.00 FEET; THENCE N 02°31'28" E - 112.14 FEET; THENCE S 87°19'23" E - 45.20 FEET; THENCE N 02°31'28" E - 68.17 FEET; THENCE S 87°28'32" E - 5.80 FEET; THENCE N 02°31'28" E - 34.00 FEET TO THE NORTHWEST CORNER OF SAID LOT TWO (2); THENCE S 87°12'53" E - 100.00 FEET TO THE NORTHEAST CORNER OF SAID LOT ONE (1); THENCE S 02°31'29" W - 214.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.63 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - TRACT 6

ALL OF LOT FOURTEEN (14), LOT FIFTEEN (15), AND A PART OF LOT SIXTEEN (16), AND A PART OF THE 10-FOOT EAST-WEST ALLEY OF BLOCK TWENTY-EIGHT (28) ORIGINAL TOWN PLAT FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT FOURTEEN (14), THENCE N 02°41'18" E - 112.28 FEET; THENCE S 87°19'23" E - 150.14 FEET; THENCE S 02°31'28" W - 112.14 FEET; THENCE N 87°22'33" W - 150.46 FEET TO THE POINT OF BEGINNING, CONTAINING 0.39 ACRES, MORE OR LESS.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: November 17, 2005

Subject: Rezoning for East Square Development (C-PZD 05-1610)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for East Square Development, submitted by Bob Kohler in behalf of One East Center, LLC. This action will establish a unique zoning district for a commercial development including a hotel, commercial uses, and a parking deck on a 1.01-acre tract located on College Avenue.

BACKGROUND

The property consists of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development will consist of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar and a 7 ½ story parking garage with 350 parking stalls. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on November 14, 2005. A Planned Zoning District requires City Council approval as it includes zoning (land use) and large scale development approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

Due to the limited area of development and the size and scope of this in-fill project, the applicant requests City Council consideration of granting several variances. These include a variance to allow construction of a parking deck over Mountain Street and a pedestrian bridge over an alley. Additionally, the applicant requests approval of lesser dedication of right-of-way for College Avenue, a Principal Arterial. The applicant has

agreed to all street improvements recommended by the Planning Commission and within the attached staff report.

BUDGET IMPACT

None.



PC Meeting of November 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 9, 2005 *Updated December 21, 2005*

C-PZD 05-1610: Planned Zoning District (EAST SQUARE DEVELOPMENT, 523):
Submitted by BOB KOHLER for property located at NW CORNER MOUNTAIN ST. AND COLLEGE AVE. The property is zoned C-4, DOWNTOWN COMMERCIAL and contains approximately 1.01 acres. The request is to approve a 16 story Commercial Planned Zoning District with a hotel, residential condominiums, meeting space, commercial space and a parking garage.

Property Owners: ONE EAST CENTER LLC

Planner: SUZANNE MORGAN

Findings:

Property Description: The property consists of a total of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

Proposal: The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar. A 7-1/2 story parking garage with 350 parking stalls is proposed. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Restaurants, Retail, Office	C-4, Downtown
South	Government/Federal Buildings	C-4, Downtown
East	Court House, Government Buildings	C-3, Central Commercial
West	Offices, Bank, Bank of Am. Condos (proposed)	C-4, Downtown

Process: The property on which this large scale development has been submitted consists of all and parts of several tracts of property. Several of the existing structures along Center Street will not be disturbed with the proposed development. The applicant requests approval for the establishment of zoning regulations on the entire tract of property and the development, proposed to be done in phases. They are as follows:

Phase I – 16-story Hotel Tower, 3-story building containing the ballroom, two structures on Center Street

Phase II – Retail/Tenant space and parking garage on Mountain Street

Permits for both Phases to be issued within one year of R-PZD approval.

The following bulk and area regulations are proposed by the applicant:

C-PZD 05-1610 East Square Development

(A) Proposed Uses.

Use Unit #	Type of Use
Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
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 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance halls

(B) Density. Density = None (25 units are proposed in the development; however, the applicant requests to reserve the right to increase the number of residential units.)

(C) Bulk and area regulations. None.

(E) Setback requirements. Front: 0'; Side: 0'; Rear: 0'

(F) Height. Hotel Tower: 16 stories maximum
(stories 11 to 16 are proposed for condominium units)
Hotel w/ Ballroom: 3 stories
Parking Garage: 7-1/2 stories
Retail/Tenant: 1 story
2 Bldg.s on Center St: 3 stories and a basement

(G) *Building area.* 100%; The entire site is covered with buildings and impervious surface.

Parking Chart:

	Parking required	Parking Provided
Mountain Inn	214	113
East Square Development	369	350

Water & Sewer: Water and sewer lines are being relocated and extended to serve the development.

Utilities: Several alleys are requested to be abandoned, in which many of the existing utility lines are located. The applicant is coordinating with the utility companies which will serve this development.

Access: The parking deck will be accessed from Mountain Street *and Center Street via an existing alley.* The Downtown Master Plan recommends a modification of Mountain Street to allow for two-way traffic. At this time, no such proposal has been brought before the Street Committee or City Council for consideration, though it is anticipated in the future, likely before the subject project is constructed. Access from this parking deck is proposed to each of the retail spaces on the ground floor of the parking deck on either side of the entrance. Also, access from the parking deck will be available *from the third floor of the parking deck* to the Hotel Tower and a pedestrian bridge is proposed to the Bank of America Condominiums to the west. The applicant also proposes a drive-in on Mountain Street for drop-off access to the Hotel Tower.

Adjacent Master Street Plan Streets:

College Avenue (Principal Arterial, currently a 50' ROW, requires 110' ROW)
Mountain Street (MS-55, Main Street; currently a 55' ROW, requires 55' ROW)
Center Street (MS-55, Main Street; currently a 55' ROW, requires 55' ROW)

Commercial Design Standards: The applicant has submitted elevations of the proposed hotel, parking garage, ballroom and structures on Center Street. They incorporate a variety of exterior materials of brick, stucco, pre-cast concrete, steel, tile, slate, glass, ornamental iron, aluminum, pre-finished metal panels and fiber cement. All proposed structures are very visible to the public due to the height of the building or prominence on the surrounding streets. The parking garage, for example, will protrude further into the street than adjacent buildings. Design and architectural style of this structure is therefore as important in its affect of the downtown area as the hotel tower.

Tree Preservation: A Tree Protection Waiver has been submitted and signed by Landscape Administrator after an on-site visit to verify that no trees currently exist.

Parks: Park fees shall be charged for each multi-family unit proposed. The developer shall pay \$9,825 for 25 multi-family units prior to issuance of a building permit for the phase in which the units shall be constructed.

Public Comment: Staff has not received any objections to the requested C-PZD at this time.

Background: The Subdivision Committee forwarded this item to the Planning Commission on September 01, 2005. *The Planning Commission forwarded this item to the City Council at the regular meeting on November 14, 2005.*

Recommendation: Staff recommends forwarding C-PZD 05-1610 to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of improvements. *Staff recommends the following:*
 - ♦ *Construction of sidewalks as indicated on the plat along College Avenue and from College Avenue to the alley on Mountain Street and Center Street.*
 - ♦ *The applicant shall comply with the plantings shown on the proposed Landscape Plan, including planters and street tree plantings in structural soil along College Avenue, Mountain Street and Center Street west to the alley. Tree species shall be approved by the Landscape Administrator.*
 - ♦ *New curb and gutter on Mountain Street and Center Street from the alley to College Avenue and along College Avenue;*
 - ♦ *Storm drainage improvements on all street frontage as shown on the site plan and as determined necessary by the City Engineer with further investigation to be conducted at the time of construction;*
 - ♦ *Pavement overlay and restriping along Mountain Street and Center Street from the alley to College Avenue and along College Avenue, as well as the alley where determined to be needed by the City Engineer as part of the construction process; an overlay of the entire width of Center Street, Mountain Street, and the alley is recommended as opposed to improvement of only one-half the street width.*

The Planning Commission recommended in favor of the above improvements.

2. Planning Commission recommendation of a lesser dedication of right-of-way for College Avenue (Hwy 71B) from the required 55' from centerline to 30' from centerline. *Staff recommends approval of the requested lesser dedication. A Master Street Plan Amendment to modify the designation of College Avenue for a total 60' right-of-way (30' from centerline) from Rock St. to North St. has been forwarded by the Planning Commission to the City Council with a recommendation for approval and is currently being reviewed by the Street Committee. This project is in compliance with this original recommendation by the Planning Commission.*

The Planning Commission recommended in favor of lesser dedication of right-of-way for College Avenue.

3. Planning Commission recommendation of **granting** a **waiver variance** request to allow the construction of a pedestrian bridge over an existing alley (City right-of-way) that will connect the parking garage to Bank of America Condominiums **subject to City Council approval to allow construction over a City right-of-way.** *Staff recommends*

approval of the requested waiver to construct a structure over public right-of-way. The parking required for the condominium units will be provided in the parking deck as was approved by the Planning Commission and listed as a condition of approval for the Conditional Use Permit for Bank of America Condominiums.

The Planning Commission recommended in favor of the requested variance to allow construction over a City right-of-way.

4. Planning Commission determination of *granting* a waiver variance request to allow the construction of a parking deck and hotel entrance canopy over the existing right-of-way for Mountain Street as indicated on the proposed C-PZD site plan *and subject to City Council approval allowing the narrowing of Mountain Street to allow this construction over a City right-of-way.* The construction of this structure over the right-of-way will result in the removal of approximately 11 on-street parking spaces, and a maximum encroachment of 17' 3" into the right-of-way. The public sidewalk will be constructed under the proposed deck, which will essentially function as a covered, open walkway.

The Planning Commission recommended in favor of the requested variance to allow the construction over a City right-of-way.

5. Planning Commission determination of Commercial Design Standards and compatibility of materials and architectural features with the surrounding structures and historic downtown. *Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square.*

The Planning Commission recommended in favor of compliance with Commercial Design Standards.

- ~~6. The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. The Planning Commission shall review the proposed elevations at the time of building permit for compliance and compatibility with surrounding developments and shall approve or deny them accordingly.~~
7. The applicant shall dedicate the required amount of right-of-way for College Avenue (Hwy 71B) as determined by the City Council by warranty deed prior to issuance of a building permit.
8. All exterior lighting shall meet the requirements of the Outdoor Lighting Ordinance. A cut sheet showing the lighting plan and details shall be submitted to the Planning Division for review and approval prior to issuance of a building permit.
9. The applicant shall install six bike racks per ordinance requirements.

10. A Certificate of Occupancy for any phase of the project may not be issued prior to completion and issuance of a Certificate of Occupancy for the Parking Deck and all required improvements for that phase.
11. All development shall meet applicable building codes for separation and other ordinances of the City of Fayetteville.
12. Allowed uses in this C-PZD shall be restricted to Use Units 1, 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 19, 24, 25, 26, and 29.
13. ~~The maximum number of dwelling units that may be permitted is 25. The applicant does not propose a maximum density to reserve the right to subdivide the condominium units in the future.~~
14. Payment of Park fees in the amount of \$9,825 for 25 multi-family units shall be paid prior to issuance of a building permit for the phase in which the units will be located.
15. Signage shall be permitted in accordance with city ordinances for a property located in a C-4 zoning district. The parking structure shall be allowed signage in accordance with the C-4 zoning district requirements.
16. Planned Zoning District approval shall be valid for one calendar year, per city ordinance. The applicant has stated that it is the intent to obtain all permits for Phase I and Phase II within one year of City Council approval of the C-PZD.
17. ~~Prior to City Council consideration, the applicant shall modify the zoning information on the site plan to indicate the maximum number of condominium units proposed in the hotel tower, density and setback regulations. The applicant has complied with this condition.~~

Standard Conditions of Approval:

18. 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)
19. 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.
20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

21. Prior to the issuance of a building permit the following is required:
- Grading and drainage permits
 - Separate easement plat for this project.
 - Project Disk with all final revisions
 - Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

ADDITIONAL CONDITIONS OF APPROVAL (AS AMENDED BY THE CITY COUNCIL ON DECEMBER 20, 2005)

22. A minimum of 16 feet clear from the alley to the bottom of the pedestrian overpass shall be maintained to ensure adequate solid waste and emergency access.
23. All sidewalks located adjacent to the public right-of-way (and not within the public right-of-way) shall be within a pedestrian/sidewalk easement, to be filed of record.

Planning Commission Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Motion to approve: Clark

Meeting Date: November 14, 2005

Second: Vaught

Vote: 8-0-0

City Council Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Vote: 8-0-0

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____

Date _____

Findings associated with C-PZD 04-1610

Sec. 166.06. Planned Zoning Districts (PZD).

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed development of the subject downtown site into a mixed-use, commercial/retail/hotel/condominium space achieves many of the goals identified in the City's adopted Downtown Master Plan, as well as many goals in the General Plan 2020. The surrounding commercial developments and residential neighborhoods will be greatly enhanced by the unique development, which provides revitalization of a prominent block on the corner of Center St., College Ave., and Mountain Street. Specific development features of the project, including the structure's height and prominence, walkable sidewalks with planters consistent with the downtown area, a parking deck and residential dwellings on the top floors of the structure, contribute to the health, safety, amenity and welfare of the community. The proposal creates residential units in the downtown area, a primary goal of the Downtown Master Plan.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required as a part of this development, with the exception of trash enclosures and utilities (wall and ground-mounted). All such utilities are proposed to be located within the interior of the parking deck. Landscaping is required, and has been presented with the Landscape Plan and includes the installation of planters and trees within the new sidewalk to provide shade for pedestrians and a streetscape. The addition of vegetation on this bare ground will be a benefit to the public and downtown.

(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: No new public or private streets are proposed with this project. A single vehicular entry point is proposed from Mountain Street to the proposed parking deck. There is an existing alley west of the proposed structures over which a pedestrian crossing is proposed. The applicant also requests the vacation of an alley which bisects the property and from which existing utilities are to be relocated. The hotel will have a drive-through drop-off area on Mountain Street. The Subdivision Committee raised concerns about the ability for cars going south from this drop-off and potential traffic conflicts should Mountain Street become two-way. As traffic on Mountain Street is slowed somewhat by the presence of a traffic light, slower speed of vehicles may allow for cars to merge onto Mountain Street. At this time, the Downtown Plan calls for Mountain Street to become two-way; however, this has not been considered by the Street Committee or City Council, which must approve any such street modification.

The applicant does request dedication of lesser right-of-way than required by the Master Street Plan on College Avenue. The Master Street Plan requires dedication of 55' right-of-way from centerline; the applicant requests dedication of 30' right-of-way from centerline. In addition, the applicant requests a waiver from the City Council to allow the construction of a parking deck over existing right-of-way for Mountain Street, which is a structure within the city right-of-way.

(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 ordinance allows any redevelopment within the C-4 zoning district to "credit," so to speak, the parking spaces and area of existing uses within the former structure towards the development. Therefore, the number of hotel rooms and area of retail space within the Mountain Inn may be deducted from the proposed bedrooms and retail area. Parking spaces are only required for the rooms, retail area, and other uses above and beyond what had existed. The parking deck provides 350 parking spaces, which is more than required for this additional development. It replaces the 101 spaces within the former parking deck, provides 12 spaces for the Bank of the America Condos and replaces the 11 on-street parking spaces removed with development, with an additional 214 spaces in excess of the previously existing parking deck.

Bike racks will be installed per ordinance requirements.

- (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 greenspace required for a Planned Zoning District is 15% of the site. Consistent with the former development of the property and the downtown, this proposal has no greenspace proposed with the exception of street tree plantings and some planters along the sidewalks, which will increase the existing greenspace of the site.

- (6) *Sidewalks.* As required by §166.03.

FINDING: A new public sidewalk 7 to 14 feet in width is proposed along Center Street, Mountain Street and College Avenue.

- (7) *Street Lights.* As required by §166.03 & §176.

FINDING: Street lights are installed on those streets adjacent to the subject property. All new building lights shall be permitted in accordance with Chapter 176, the Outdoor Lighting Ordinance.

- (8) *Water.* As required by §166.03.

FINDING: Public water is being provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer is being provided to the project site, pursuant to city code.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards

FINDING: There is no tree canopy on the subject property.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Staff finds the architectural elevations for the Hotel Tower exceed the city's commercial design standards. The elevations submitted for the Parking Deck are primarily pre-finished metal panels, though the first two stories will be brick. This structure will be prominent on Mountain Street, as the applicant has requested a waiver to construct this building within the right-of-way. Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square. The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. Staff shall review the elevations at the time of building permit for compliance and compatibility with surrounding developments.

- (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 scenic views to be protected on the subject property. This property is located atop one of the many hills within Fayetteville, this being the most prominent as it defines the downtown area. The addition of a 16-story structure at this location will alter the line-of-site for this property and the view of the city from afar. The construction of such a tall structure is unique within the City of Fayetteville but not unprecedented, with the Hillcrest Tower and Radisson Hotel (15 floors) located within close proximity to 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.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from C-4, Downtown Commercial, to C-PZD 05-1610, with the adoption of the associated large scale development plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as Historic Commercial. Rezoning this property to C-PZD 05-1610, with associated mixed use plan, is consistent with the land use plan and compatible with surrounding land uses.

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 previous use of this property and the surrounding uses within the properties zoned for Downtown Commercial, which this property is currently zoned. The mixed-use commercial and multi-family residential development exhibits many of the characteristics deemed desirable as guiding policies in the General Plan 2020, as well as the adopted Downtown Master Plan.

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

Finding: The proposed rezoning is justified, as a means of redeveloping a parcel of property in the downtown area in a manner that is more consistent with surrounding land use patterns. A mixed-use land use is desirable for the subject property, to achieve compatibility with both commercial and residential zoning and land use in the surrounding area.

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

Finding: Based on staff findings and the attached Fayetteville Police Department report and Fire Department projections, the proposed rezoning would not create or appreciably increase traffic danger and congestion in the area. This property was formerly developed for a similar type use at a smaller scale. At one time this property generated considerable traffic. The redevelopment of the property will increase the amount of traffic on surrounding streets, but most traffic will be generated from College Avenue, a Principal Arterial Street which has been designated to serve up to 20,600 vehicle trips per day.

Fire: The request for C-PZD 05-1610, East Square Development, is within the acceptable limits of service delivery impact for the Fire Department.

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

Finding: The proposed zoning would create a total of 25 new residential units. This increase in units would not undesirably increase the load on public services.

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:

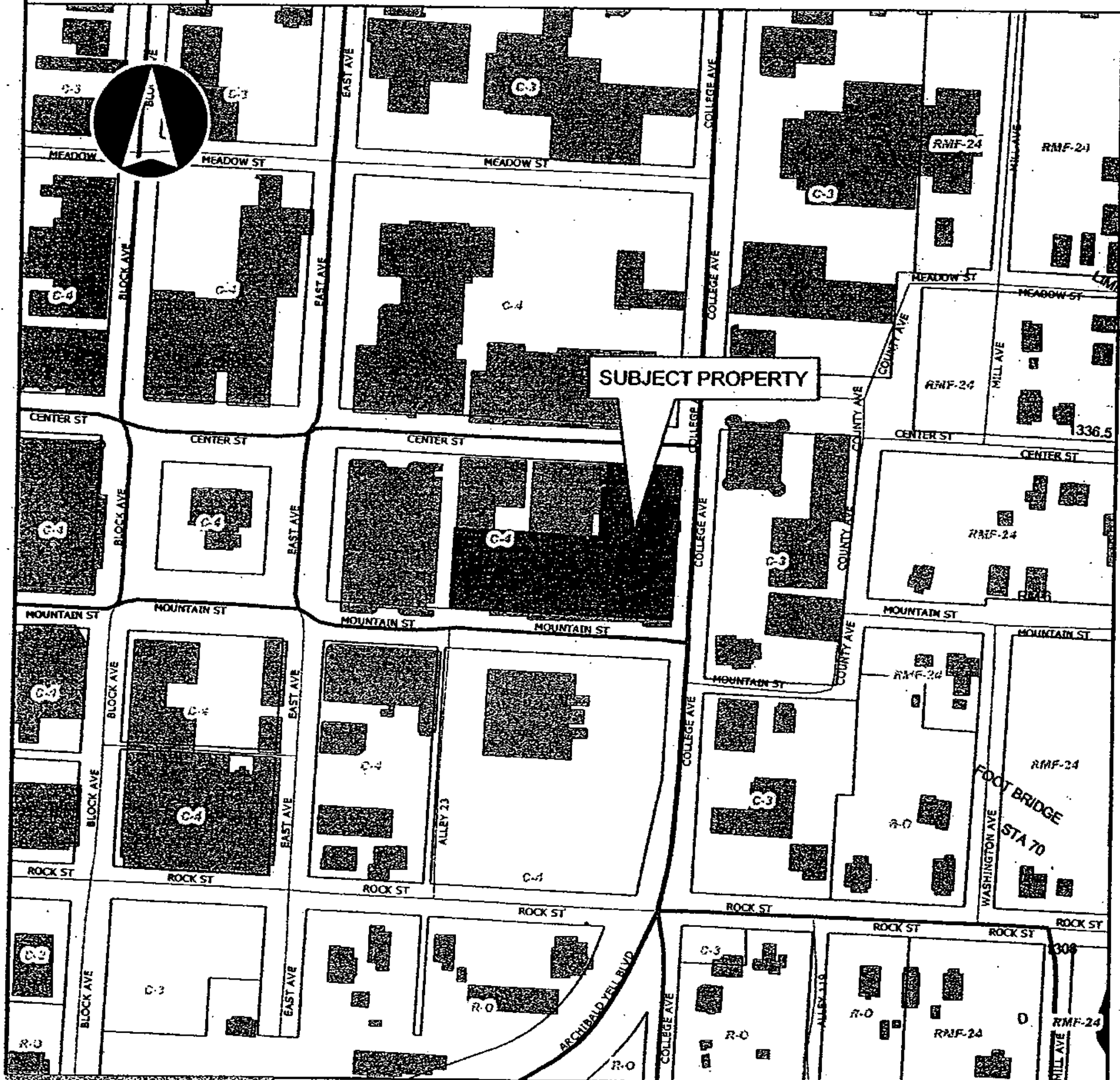
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

CPZD05-1610

EAST SQUARE DEVELOPMENT

Close Up View



Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- Fayetteville
- Outside City
- CPZD05-1610
- vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet

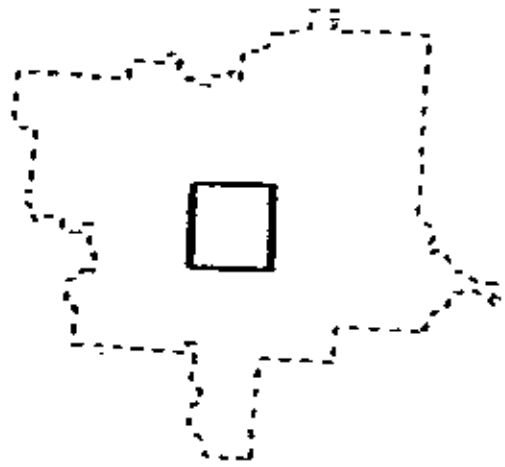
CPZD05-1610

EAST SQUARE DEVELOPMENT

One Mile View



Overview



Legend

Subject Property
CPZD05-1610

Boundary

Planning Area
Overlay District
Outside City

0 0.125 0.25

0.5

Legend

0.75

1

Miles

LANDSCAPE PLAN

—Thornless Honeylocust

THESE ARE THE ONLY
 TWO WHICH ARE
 AVAILABLE IN THE
 MARKET

THEM GRATE AND STRUCTURAL SOIL DETAIL

7. THERMOPOLYMER AND STRUCTURAL

CENTER STREET

MOUNTAIN STREET

COLLEGE AVENUE

EAST SQUARE DEVELOPMENT

CORNER OF COLLEGE AND MOUNTAIN STREET
 FAYETTEVILLE
 AR

22

FILE REFERENCE

11 N. WEST AVENUE
FAVETTEVILLE, AR 72011

ROBERT SHARP ARCHITECT, P.C.		EST. 220	
351 SOUTH SCHOOL		PAVATHIVILLE	
AM		72701	

A3

**LANDSCAPE
PARK**

1477809

**PRELIMINARY
NOT FOR
CONSTRUCTION**

ALDERMAN APPEAL REQUEST FORM

COUNCIL MEETING OF: June 6, 2006

FROM: Alderman Lioneld Jordan

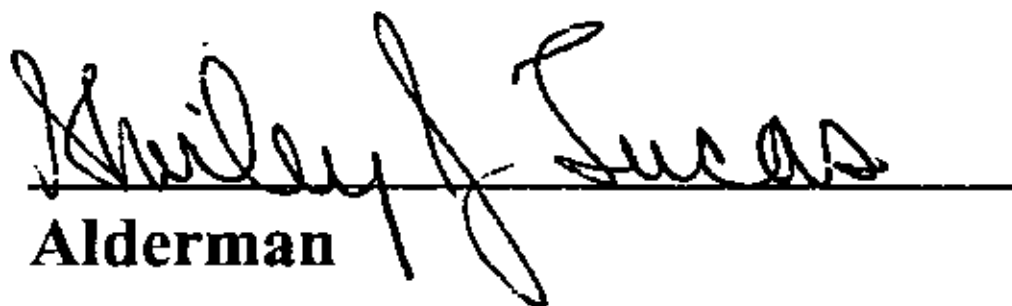
APPEAL TITLE AND SUBJECT:

Appeal the approval of the PPL 06-1977: Preliminary Plat (Crystal Springs IV)

Preliminary Plat submitted by Mel Milholland for property located north of Mt. Comfort Road, at the end of Raven Lane. The property is zoned RSF-4, Single Family - 4 Units/Acre and contains approximately 85.18 acres. The request is for a residential subdivision with 273 single family lots.


Alderman

5/12/06
Date


Alderman

5-12-06
Date

Alderman

Date

Alderman

Date



May 11, 2006

City of Fayetteville
Sondra Smith, City Clerk
113 West Mountain Street
Fayetteville, AR 72701

RE: Appeal of PPL 06-1977: Preliminary Plat (Crystal Springs IV)

Dear Sondra,

I would like to appeal the Planning Commission's decision regarding PPL 06-1977, Preliminary Plat (Crystal Springs IV). I am appealing their decision on the behalf of Kathleen Stocker and Susan Pomoransky. I have received numerous calls regarding this preliminary plat therefore I feel this appeal is warranted. Please present this appeal to the City Council at the June 6, 2006 City Council meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lioneld Jordan".

Alderman Lioneld Jordan
Ward 4

113 West Mountain

Fayetteville, AR 72701

RECEIVED

MAY 12 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

City Clerk



Final

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

**AGENDA FOR A MEETING OF THE
PLANNING COMMISSION**
Monday, May 8, 2006, 5:30 p.m.
Room 219, City Administration Building

The following items will be considered:

Discussion Item: Downtown Master Plan/Entertainment District Ordinance Amendments

Consent:

1. VAC 06-2045: (BELLAFONT II, 175): Submitted by H2 ENGINEERING, INC. for property located NW OF JOYCE BLVD. AND VANTAGE DRIVE. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 0.28 acres. The request is to vacate a portion of a utility easement located within the subject property.
Planner: Andrew Garner

2. LSD 06-2036: Large Scale Development (VALUE PLACE HOTEL, 519): Submitted by DIRK THIBODAUX, FREELAND KAUFFMAN & FREDEEN, INC. for property located NE OF OLD FARMINGTON ROAD AND SHILOH DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 3.70 acres. The request is for a 4-story, 42,620 s.f. hotel with 120 parking spaces and 120 guest rooms.
Planner: Andrew Garner

New Business:

3. PPL 06-1977: Preliminary Plat (CRYSTAL SPRINGS IV, 285): Submitted by MEL MILHOLLAND for property located N OF MT. COMFORT RD., AT THE N. END OF RAVEN LANE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 85.18 acres. The request is for a residential subdivision with 273 single family lots.
Planner: Suzanne Morgan

4. PPL 06-1998: Preliminary Plat (THE HEIGHTS @ PARK WEST, 208): Submitted by MEL MILHOLLAND for property located at HWY 112, N OF I-540. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (R-PZD 05-1796, PA-1) and contains approximately 27.62 acres. The request is for residential subdivision with 100 dwelling units.
Planner: Suzanne Morgan

5. RZN 06-2026: Rezoning (LAFAYETTE & MISSION, 485, 486): Submitted by Planning Staff on behalf of the neighborhood for property located NORTH AND EAST OF MISSION BOULEVARD AND LAFAYETTE STREET. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY 24 UNITS PER ACRE AND I-1, HEAVY COMMERCIAL, LIGHT INDUSTRIAL. The request is to rezone the area to RMF-6, Residential Multi-family 6 units per acre.
Planner: Leif Olson

6. RZN 06-2049: (COMBS, 564): Submitted by ENGINEERING SERVICES, INC for property located at SE CORNER HWY 16 AND MORNINGSIDE DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 62.00 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family, 24 units per acre.
Planner: Andrew Garner

7. **ANX 06-2046: (OLD WIRE INVESTORS, 217):** Submitted by RAYMOND SMITH for property located at NW INTERSECTION OF OLD WIRE AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 30.70 acres. The request is to annex the subject property into the City of Fayetteville.
Planner: Andrew Garner

8. **RZN 06-2047: (OLD WIRE INVESTORS, 217):** Submitted by RAYMOND SMITH for property located at NW INTERSECTION OF OLD WIRE ROAD AND ROM ORCHARD ROAD. The property is in the Planning Area and contains approximately 35.51 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.
Planner: Andrew Garner

9. **RZN 06-2048: (TETRA INVESTMENTS, 598):** Submitted by PROJECT DESIGN CONSULTANTS, INC for property located at 1938 W CUSTER LANE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 1.37 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family, 24 units per acre.
Planner: Suzanne Morgan

10. **RZN 06-2050: (WALES, 373):** Submitted by JASON AND AMY WALES for property located at 2055 N FOX HUNTER ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.43 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.
Planner: Jesse Fulcher

11. **RZN 06-2028: (MOUNTAIN RANCH, 479):** Submitted by TOM TERMINELLA for property located at WEST OF I-540 AND SOUTH OF BETTY JO DRIVE. The property is zoned C-1, RMF-24, RSF-4, and R-A, containing approximately 47.48 acres. The request is to adjust existing zoning lines and to rezone certain parcels of the property in the manner indicated with the attached maps and descriptions.
Planner: Jeremy Pate

All interested parties may appear and be heard at the public hearings. A copy of the proposed amendments and other pertinent data are open and available for inspection in the office of City Planning (575-8267), 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the petitions. Interpreters or TDD for hearing impaired are available for all public hearings; 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

May 10, 2006

RE: Request for Appeal of the Planning Commission Ruling regarding PPL 06-1977 Preliminary Platt (Crystal Springs IV, 285) Submitted by Mel Milholland for property located N of MT Comfort RD at the end N END of Raven Ln. The property is zoned RSF-4, Single Family – 4 UNITS/ACRE and contains approximately 85.18 acres. The request is for a residential subdivision with **273 single family lots**.

Dear Alderman Jordan

The citizens of Birdhaven addition are requesting you bring this appeal before the City Council. Under Title XZV Unified Development Code 155.04 Alderman may bring an appeal on behalf of any resident of the city on actions which are appealable to the City Council. 155.05 A (2) Appeals from Planning Commission Decisions states any member of the City Council may appeal the decision to deny or approve a preliminary plat. We are requesting the Planning Commission ruling approving the above listed item be overturned for the following reasons.

- **Connectivity** -This development has poor connectivity and has not been able to gain access to the east and west of the development in this phase. It is clear these property owners do not want connections made.
- **Mount Comfort** – We are being told it is in the design phase. Is there current funding to do the road work needed for Mount Comfort. I am confident the answer is no. Even if the road work began today it might be years before we see relief from the current traffic problems. This development of 273 houses will only make a bad situation worse.

- **Comments made by Planning Commissioners**

Commissioners stated “sometimes all we can do is make dumb decisions because of dumb rules”, **What rules kept them from denying this development?**

They also said they would not likely support another such development if traffic conditions in the area did not improve. This was an acknowledgement of the traffic problems. They referred the Birdhaven citizens back to city council by encouraging us to contact our alderman. One suggestion was to develop an ordinance that said infrastructure needs to be in place before the development instead of current methods. We were told to go to Street Committee meetings.

All of these comments lead us to believe a mistake was made in their approving this development and we hope you will support us in this appeal.

This development does not have the proper connections, and will impact our neighborhood immediately with traffic problems. That is recognized by putting speed tables in as part of the project. You know we are going to have problems before we even get this project started.

Our subdivision is going to suffer from this development and I think our traffic concerns are legitimate; numerous people in our neighborhood sent in letters, postcards and/or signed a petition against this development. We ask for your support and ask you to please bring this appeal to City Council for consideration.

Kathleen Stocker
2848 W, Quail Drive
Fayetteville, AR 72704

Subject: FW: CRYSTAL SPRINGS 4 SUBDIVISION
To: lljordan@uark.edu

From: Susan Pomoransky [mailto:spomoransky@mwyusa.com]
Sent: Wednesday, April 26, 2006 2:30 PM
To: 'smorgan@ci.fayettevillear.us'
Subject: CRYSTAL SPRINGS 4 SUBDIVISION

Suzanne and Planning Commission:

I am writing in regards to this meeting on the 27th at 9 A.M. First of all: Not all of us whom would like to be there; can just take off of work and go to this meeting. Can you not change it's time??? There is a lot of us who would like to voice our option. You gave another big builder a special hearing can't we ask for that too???

I am concerned with the idea of you all wanting to open up the cul-de-sac on Raven Lane and Woodlark Lane being opened as an outlet for the 274 Homes that are purposed to be built. This will increase the traffic in our small streets and neighborhood. We are an established neighborhood and have no sidewalks or any kind of green space. Our children play in the streets and we have no problems with that at all. No speeders and our school buses come into our neighborhood to pick up children, because us as concerned parents refused to let our children stand on Mt. Comfort Road because of the danger. Now, the planning commission wants to open up these roads as outlets. This will increase the danger to our children and our neighborhood. We can not handle 400 to 600 cars every morning and night. We have a hard enough time getting out on Mr. Comfort Road as it is.

This is our only outlet. Sometimes, the traffic is really tied up there. No improvements have been made on Mt. Comfort Road or any other road near by. You all have let so many subdivisions go in and no improvements to the roads. It doesn't take a someone with a college education to figure it out more homes going in sooner or later you have to build or improve the old roads. You know as well as I do that with 274 purposed houses going in will have at least 2 -3 cars per house hold (546 cars if 2 cars per house/ or 3 per household will be 822 cars) and then if you get families moving in together or students you can bet on at least two or three more vehicles per house hold. Do you think our streets can handle that??? So, you see; we will truly have a much bigger problem. Mt. Comfort is already crowded and so is Salem Road and so is Ruppel Road. When the new school went in off of Ruppel Road that road was supposed to be straightened out and fixed. That still hasn't happened and a new housing addition is going in there now. These roads need to be improved. Can you not find another outlet somewhere else for the Crystal Springs Subdivision # 4.??? Please do not ruin our nice neighborhood.

Susan Pomoransky
2732 Meadowlark Lane
Fayetteville, AR 72704

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 12, 2006

Subject: Alderman Appeal of Crystal Springs IV (PPL 06-1977)

RECOMMENDATION

Staff recommended and the Planning Commission approved with a vote of 7-2-0 a preliminary plat for Crystal Springs Subdivision Phase IV (PPL 06-1977), with conditions of approval as noted in the staff report.

BACKGROUND

A masterplan of development for the overall Crystal Springs Development has been in place since the early 1990s. Almost every phase of Crystal Springs Development has been appealed or challenged; all have been upheld (or amended) by the City Council as meeting applicable city ordinances. Phase I consisted of 112 lots accessed off of Salem Road, in an area that was in the county at the time of submittal in 1993. With this initial phase, the developer donated approximately 20 acres to the Fayetteville School District, on which Holcomb Elementary is now located. An additional 15.45 acres was dedicated in 1994 to the City for parkland; the Parks and Recreation Board and Planning Commission accepted land that would meet the requirements for a total of 575 single family residential lots in all of the future Crystal Springs phases. Gary Hampton Softball Field complex was constructed in 2000-2001 on this property, and is enjoyed by the neighborhoods that have since developed in this rapidly growing area. Crystal Springs II and III have been developed/platted north of Clabber Creek, and consist of 14 and 101 lots, respectively.

The applicant received approval by the Planning Commission of PPL 06-1977 for Crystal Springs IV, the final phase of a planned residential development north of Mount Comfort Road, south of Clabber Creek. This final phase consists of 273 single family lots on 85 acres, to be constructed in six (6) phases. Based on the amount of lots proposed and future traffic generation, staff recommended significant off-site improvements to be constructed as part of this project. Most significantly, this includes a crossing of Clabber Creek to the north, which will distribute traffic and thereby decrease dependency of use on Mount Comfort Road, which is an unimproved street at this time. This bridge crossing is anticipated to be close to \$500,000 in cost, and will include trail crossings along Clabber Creek. No cost-share by the city for this significant street improvement is recommended by staff. Other off-site improvements recommended include an assessment for a turn lane at Raven Lane and Mount Comfort Road, the removal of existing

temporary cul-de-sacs and installation of curb, gutter, sidewalk, etc. to make adequate street connections and the installation (at the developer's cost) of four (4) speed tables within Birdhaven Terrace Subdivision, south of the planned development to alleviate any future speeding within the established neighborhood. Two streets within Birdhaven Terrace currently provide access to the subject 85-acre parcel, including the Collector Street Raven Lane, and will be continued into the development in the first phase, which contains a maximum of 58 lots. Staff's recommendation to the Planning Commission also included the Clabber Creek crossing to occur at minimum with the second phase of development, which ensures that a maximum of 58 homes (and the traffic generated therefrom) can be constructed before the north connection is completed.

DISCUSSION

Staff has spoken with numerous residents in this area, primarily those residing in Bird Haven Terrace to the south of Crystal Springs IV or on Gooseberry Lane. The resounding concern has been the detrimental impact of through traffic within the established neighborhood and expected congestion and delays on Mount Comfort Road without significant improvements. Staff recognized the impact on these neighborhoods, and made recommendations to the Planning Commission for the developer to make improvements which would be considered roughly proportional to the impact of the development, as required by city ordinance. Five persons spoke at the Planning Commission meeting, and all written comments are included in the attached reports.

The Planning Commission also questioned staff as to future improvements of Mount Comfort Road. As noted at recent Street Committee meetings, a bond program for improvements to streets, including Mt. Comfort Road, is being discussed. This is a decision to be made by the City Council and ultimately by voters, however, and can not be depended upon as of right now to occur. At this time, staff is recommending assessments for most developments that have an impact on Mount Comfort Road and are not contributing in other ways to alleviate the impact that additional traffic created by their proposal is having on existing infrastructure. This decision to take assessments instead of piecemeal improvements along Mt. Comfort is relatively recent, and is in part an effort to plan for comprehensive improvements to Mt. Comfort Road as has been discussed in meetings with the Street Committee. It must be noted, however, that staff does not at this time depend whatsoever on planned improvements by the City to offset the contributions a developer must make. Our ordinances direct us to recommend to the Planning Commission the improvement that would be proportional to the development requested. A future Capital project to improve Mt. Comfort Road may be forthcoming, and may not. With that in mind, staff recommended significant improvements for this development to increase connectivity between neighborhoods and decrease dependency upon Mt. Comfort Road as the only means of east-west access in the area.

BUDGET IMPACT

None.



PC Meeting of May 08, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: May 3, 2006

PPL 06-1977: Preliminary Plat (CRYSTAL SPRINGS IV, 285): Submitted by MEL MILHOLLAND for property located at N OF MT. COMFORT RD., AT THE N END OF RAVEN LANE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 85.18 acres. The request is for a residential subdivision with 273 single-family lots.
Planner: SUZANNE MORGAN

Findings:

Property: The subject property contains approximately 85.18 acres located north of Bird Haven Terrace, north of Mount Comfort Road. This property is zoned RSF-4. The applicant proposes to create a 273 single-family lot subdivision (with an additional unbuildable lot), a density of 3.2 units per acre, within six phases of development. A bridge connection is proposed to Raven Lane within Crystal Springs Phase III, which cost and construction is the burden of the developer. A masterplan of the overall Crystal Springs development, including this property, has been in place since the early 1990s. This developer, with the initial phase of Crystal Springs, donated land for parks and schools in this area.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family residential (Crystal Springs Phase III), Clabber Creek	RSF-4
South	Single family residential (Bird Haven Terrace, Mt Comfort Addition, Crofton Manor)	RSF-4
East	Golf Course	RSF-1
West	Vacant – Pasture	RSF-1

Water and Sewer: Water and sewer lines shall be extended to serve the proposed development.

Adjacent Master Street Plan Streets: Raven Lane, a Collector Street. Staff finds that the extension of Raven Lane is compliant with the Master Street Plan, as is the east-west Collector Street which will provide a future connection to McClaren Drive within Salem Heights Subdivision.

Right-of-way to be dedicated: The majority of interior streets are proposed to be 42' rights-of-way with a 24' wide street and 4' sidewalks on both sides. Streets A, C, and D are 50' rights-of-way with 28' wide streets and sidewalks on both sides. The two interior Collector Streets (a portion of Street H and Raven Lane) will be dedicated with 70' right-of-way. Raven Lane is proposed to be extended between Crystal Springs Phase III and Phase IV through property owned by Crystal Springs LTD Partnership. Right-of-way for this street/bridge connection shall be dedicated by separate document prior to recordation of Phase II.

Phasing:

As proposed by the developer, the Phasing of the subdivision will occur with the following number of lots and street connections to existing infrastructure:

Phase	Number of Lots	Number of Street Connections to Existing Streets	Stub-outs to the east and west for future street connections
I	58	2 (Raven Lane & Woodlark Lane)	1 (East)
II	19	1 (Raven Lane connection to the north)	0
III	43	0	0
IV	58	0	1 (East)
V	35	0	0
VI	61	0	2 (West)

Staff finds that the number of street connections made for each phase are adequate for the volume of traffic generated by the lots proposed.

Connectivity:

To the South (Phase I):

Two street connections are proposed to the south, through Bird Haven Terrace Subdivision. The right-of-way for Woodlark Lane and Raven Lane were platted to the property line which would allow future right-of-way extension to the north. The connection to these streets has been shown. The existing cul-de-sacs shall be removed by the developer.

Staff requested that the applicant explore the possibility of a street connection onto Gooseberry Lane located within Mount Comfort Addition, which would require the dedication of right-of-way on either side of the existing cul-de-sac. Staff received a petition from the neighbors within this subdivision stating their disagreement to a street connection; however, this petition did not include the signatures of the owners on either side of the cul-de-sac. The applicant stated that an informal discussion with Mr. Strange and Mr. Thompson who, according to the applicant, indicate a negative attitude to any development. Staff has met with the owners to discuss this connection, and Mr. Strange did attend one Subdivision Committee meeting and expressed his disagreement with a street connection to Gooseberry Drive. Another street connection would further disperse traffic in the area. Should the adjoining property owners agree to sell property to allow this street connection, staff would recommend such a connection.

A street connection to Kenswick Avenue, located to the southwest of property within Crofton Manor Subdivision, will alleviate the volume of traffic through Bird Haven Subdivision.

Kenswick Ave. was platted to be extended to the north. Staff recommended that the applicant obtain right-of-way to connect Street B to Kenswick Ave. prior to the recordation of an initial Phase of this development, also stating that if the applicant provides this connection to Kenswick Avenue, a connection to Gooseberry Lane is less desirable. Since the Subdivision Committee meeting on March 30, 2006, staff has met with the owner of the property to the west through which the street connection to Kenswick Avenue would occur. The owner has stated his opposition in this connection and submitted a letter regarding the matter (see attached).

To the West (Phase VI):

The applicant has provided two street connections to the west. The southern connection can eventually connect to Kenswick Ave. within the Crofton Manor Subdivision, just off-site of the property. The second western stub-out is shown as a Collector Street, per the Master Street Plan. This street will align with McClaren Drive, located within the Salem Heights Subdivision, at Salem Road.

To the North (Phase II):

The applicant proposes to construct Raven Street, a Collector Street, across Clabber Creek. The street will make a connection with the constructed Raven Lane within Crystal Springs Phase III. Staff recommends that this street connection occur no later than Phase II in order to provide sufficient connectivity to the north and potentially relieve some traffic exiting through Bird Haven Terrace onto Mount Comfort Road. Another connection to the north is not desirable, due to the presence of significant floodplain and floodway.

To the East (Phase I and IV):

Two street stub-outs are provided to the east – at the southeast and northeast corners of the subdivision. The property to the north and east is currently developed for a golf course. However, it may not remain undeveloped for this use and this amenity is not being utilized as a main feature within this subdivision with homes directed toward views of the golf course. If ever developed, traffic would have the ability to access the property via Deane Solomon Road and through the proposed subdivision. The street connection at the northeast corner of the property will provide a street connection to the north when the adjacent property develops.

Traffic Calming: The applicant shall install two speed tables on both Raven Lane and Woodlark Lane at a location specified by the Transportation Division.

Street Improvements: The applicant has submitted a traffic study to evaluate the effect of the additional 273 lots on the existing infrastructure. After review of the traffic study and current traffic demands, staff recommends the following street improvements:

- a. If the applicant is able to secure right-of-way for a connection to Kenswick Avenue in Crofton Manor Subdivision, the street connection of a 28' street with curb, gutter, storm drains, sidewalks and street lights shall be constructed with Phase VI of the development. The off-site dedication of 50' right-of-way by separate document should occur prior to the recordation of Phase VI.
- b. The installation of 4 speed tables (2 on Raven Lane and 2 on Woodlark Lane) to provide traffic calming. These speed tables shall be installed at a location approved by the Transportation Department prior to recordation of Phase I of the subdivision.
- c. The developer shall pay an assessment in the amount of \$9,405.00 for a left turn

lane on Raven Lane for traffic accessing onto Mount Comfort prior to the recordation of Phase I.

- d. Construction of a bridge or crossing over Clabber Creek to connect the proposed subdivision to Crystal Springs Phase III to be completed prior to the recordation of Phase II of Crystal Springs Phase IV.
- e. The developer shall be responsible for the removal of the existing cul-de-sacs on Raven Lane and Woodlark Lane, into which the new streets will connect, and the extension of a minimum 28' street, curb, gutter, storm drain, and sidewalk (6' on Raven Lane and 4' on Woodlark Lane) to the cut-point as shown on the plat. The sidewalk shall extend beyond the cut point to tie into the existing sidewalk. The applicant shall reconstruct the existing driveways to connect to the new street, along with all soil, grass, etc. to reconstruct these yards.

Staff is not recommending additional off-site improvements on Mount Comfort Road due to the significant cost associated with the construction of a crossing over Clabber Creek, for which a cost-share is not recommended. The applicant's engineer has estimated that the cost of the bridge will be from \$488,000 to \$560,000. This connection will alleviate traffic on Mount Comfort Road and will be utilized by residents in the area to move north and south.

<i>Tree Preservation:</i>	Existing:	9.9%
	Preserved:	5.8%
	Required:	9.9%
	Mitigation:	Required – 350 trees

Parks: On July 15th 1994 a deed for 15.45 acres was received from Crystal Springs Limited Partnership satisfying the park land dedication requirements for this development. Below is a break down of the banked park land.

- o Phase I – Lots 1-112 = 112 units x .025 = 2.8 acres
- o Phase II – Lots 113-127 = 14 units x .025 = .35 acres
- o Phase III – Lots 128-229 = 101 units x .025 = 2.525 acres
- o Phase IV – 274 SF units proposed x .025 = 6.85

Total Used = 12.525 acres - 2.925 acres remains.

*Land calculations are based the 1994 ordinance amount of .025 acres per single family Unit.

Clabber Creek Trail is identified on the Fayetteville Alternative Transportation and Trail Plan and is shown along the northern part of this development. The developer has agreed to donate all the land between the flood plain lines from the west property line to the east property line prior to approval of final plat. Additional land may be necessary to provide an at-grade trail crossing at Raven Lane. The additional land shall be approved by the Trails Coordinator.

Public Comment: Many neighbors attended the Subdivision Committee meetings, voicing concerns regarding the project. The Planning Division has received numerous petitions, comments, post cards, and letters from surrounding property owners who are in opposition to the proposed development with most concerns addressing the increase in traffic and connections onto Woodlark Lane, Raven Lane and Goosberry Lane. These comments are available at the Planning Division.

Background: This project was heard at the March 30, 2006 Subdivision Committee. It was tabled at this meeting to address the comments regarding the phasing, connectivity, street design, and other plat comments. The Subdivision Committee considered this preliminary plat again on April 27, 2006 at which meeting it was forwarded to the Planning Commission with recommendations. The discussion by the Subdivision Committee included the routing of construction traffic through Crystal Springs Phase III to avoid Bird Haven Terrace, the possibility of requiring repair to Raven Lane and Woodlark Lane if damaged during construction, the proposed block lengths, and traffic circulation around the proposed landscape islands on Raven Lane.

Recommendation: Staff recommends approval of PPL 06-1977 subject to the following conditions:

Conditions of Approval:

1. Planning Commission determination of appropriate street connectivity. *Staff finds that the dedication of right-of-way to provide a street connection from Street B to Kenswick Avenue in Crofton Manor prior to the recordation of Phase II is essential to provide sufficient connectivity to Mount Comfort Road for this amount of lots. Staff finds that all other street connections are adequate.*
The Subdivision Committee recommended in favor of the proposed street connectivity.
2. Planning Commission determination of street improvements. *Staff recommends the following street improvements:*
 - a. *If the applicant is able to secure right-of-way for a connection to Kenswick Avenue in Crofton Manor Subdivision, the street connection of a 28' street with curb, gutter, storm drains, sidewalks and street lights shall be constructed with Phase VI of the development. The off-site dedication of 50' right-of-way by separate document should occur prior to the recordation of Phase VI.*
 - b. *The installation of 4 speed tables (2 on Raven Lane and 2 on Woodlark Lane) to provide traffic calming. These speed tables shall be installed at a location approved by the Transportation Department prior to recordation of Phase I.*
 - c. *The developer shall pay an assessment in the amount of \$9,405.00 for a left turn lane on Raven Lane for traffic accessing onto Mount Comfort prior to the recordation of Phase I.*
 - d. *Construction of a bridge or crossing over Clabber Creek to connect the proposed subdivision to Crystal Springs Phase III to be completed prior to the recordation of Phase II of Crystal Springs Phase IV.*
 - e. *The developer shall be responsible for the removal of the existing cul-de-sacs on Raven Lane and Woodlark Lane, into which the new streets will connect, and the extension of a minimum 28' street, curb, gutter, storm drain, and sidewalk (6' on Raven Lane and 4' on Woodlark Lane) to the cut-point as shown on the plat. The sidewalk shall extend beyond the cut point to tie into the existing sidewalk. The applicant shall reconstruct the existing driveways to connect to the new street, along with all soil, grass, etc. to reconstruct these yards.*

Staff is not recommending additional off-site improvements on Mount Comfort Road due to the significant cost associated with the construction of a crossing over Clabber Creek, for which a cost-share is not recommended. The applicant's engineer has estimated that

the cost of the bridge will be from \$488,000 to \$560,000. This connection will alleviate traffic on Mount Comfort Road and will be utilized by residents in the area to move north and south.

The Subdivision Committee recommended in favor of street improvements as listed above.

3. Planning Commission determination of appropriate phasing of the development. *Staff recommends in favor of the phase lines in relationship to street connectivity.*
The Subdivision Committee recommended in favor of the proposed phasing of the development.
4. ~~Planning Commission determination of a waiver of the maximum 1400' block length requirement for the eastern block on Street 'C', which is approximately 1520' in length. Staff recommends the requested waiver, finding that the two proposed eastern street connections to the existing golf course are adequate for future development connections.~~
Street 'F' shall extend to the east property line (a new stubout).
5. Raven Lane is proposed to be extended between Crystal Springs Phase III and Phase IV through property owned by Crystal Springs LTD Partnership. The complete construction and acceptance of a bridge or crossing over Clabber Creek and the dedication of right-of-way for this portion of Raven Lane by separate document is required prior to recordation of Phase II.
6. Construction traffic other than passenger vehicles is encouraged not to access the property through Woodlark Lane and Raven Lane. Temporary barricades shall be installed at the terminus of the existing streets to discourage construction traffic access. Once sufficient access has been established from the north, no construction traffic shall access the site from residential streets to the south.
7. The applicant shall repair any damage of existing streets caused by vehicular traffic generated by the construction of this subdivision.
8. The applicant shall submit a guarantee (letter of credit, bond, or cash) of \$1,000 per lot prior to the recordation of the final plat for contributions to an interim solution to wastewater capacity concerns in the Owl Creek/Hamestring Creek basin, if the improvement is required. Final determination of the contribution shall be made by the City Engineer.
9. Sidewalks along all Collector Streets within the Subdivision shall be constructed (not guaranteed) prior to recordation of the final plat for each Phase.
10. The applicant shall provide a separate filed document dedicating off-site drainage easements to the detention pond prior to recordation of the final plat. The P.O.A. shall be responsible for maintenance of the required detention pond.
11. No lots shall access the east-west Collector Street or Raven Lane (a Collector Street) if an interior street may be accessed. A note shall be included on the final plat to indicate this requirement. Lots required to access these Collector Streets are encouraged to utilize shared drives to decrease curb cuts on the Collector Street.

12. Clabber Creek Trail is identified on the Fayetteville Alternative Transportation and Trail Plan and is shown along the northern part of this development. The developer has agreed to donate all the land between the floodplain lines from the west property line to the east property line prior to approval of final plat. Additional land may be necessary to provide an at-grade trail crossing at Raven Lane. The additional land and location of the trail under the creek crossing shall be approved by the Trails Coordinator.
13. Mitigation is required in the amount of 350 (2) inch caliper large. Staff is recommending the Residential On-Site Mitigation Option. An on-site mitigation plan must be submitted at time of Final Plat for review and approval by the Urban Forester.
14. A 3-year maintenance and monitoring bond in the amount of \$87,500 will be required for these trees.
15. The P.O.A. shall be responsible for the maintenance of the landscape islands and Lot 77, an unbuildable lot.
16. The developer shall install a centerline between the two proposed landscape islands on Raven Lane and north to the intersection of Street 'B' and Raven Lane in order to delineate traffic lanes.
17. Street lights shall be installed or guaranteed with a maximum separation of 300 feet along all streets within each Phase prior to recordation of the final plat for that Phase.
18. Subdivision area signage shall be permitted in accordance with applicable city codes.
19. Signs shall be installed at each street stub-out to indicate the future extension of the right-of-way (including the stub-out provided on Raven Lane at the southeast corner of the property) prior to recordation of the final plat of each Phase. (Coordinate with the Transportation Division.)
20. All lots shall be platted in conformance with the RSF-4 bulk and area regulations. It is inconclusive whether all lots meet the lot width requirements at the right-of-way and building setback lines. Note the lot width at the 25' building setback on the plat for those lots that are either located on a curve or cul-de-sac and have less than 70' lot width. (See lots 24-26, 61, 78, 85, 96, 97, 109, 110, 148-150, 179, 192, 196, 197, 200, 201, 233.)
21. In addition to those items within the conditions of approval that must be addressed on the proposed plat, modify the plat to address the following comments prior to construction plan review:
 - a. Revise the note regarding improvements to Woodlark Lane and Raven Lane to include all requirements set forth in condition of approval 4e, which requires some improvements to extend beyond the cut point.
 - b. Building setbacks applied to corner lots are as follows: a 25' front BSB adjacent to the right-of-way and an 8' side BSB (or greater if a utility easement) on the remaining two property lines. Revise the building setback lines on all corner lots to meet this requirement.
 - c. Verify that all lots are of sufficient size for home construction (see lots 16, 20 and

- 108 specifically).
- d. The GIS Division will review the revised plat to ensure that the State Plane Coordinates are correct. Please modify if necessary. (Coordinate with Planning Staff.)
 - e. Show the location of the all streets identified on the Master Street Plan on the vicinity map.
 - f. Identify the west building setback line of lot 148 as a drainage easement, as it appears to be.

Standard Conditions of Approval:

- 22. All street names and addresses shall be approved by the 911 coordinator.
- 23. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
- 24. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
- 25. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
- 26. Preliminary Plat approval shall be valid for one calendar year.

Additional conditions:

- a. Motion to Strike Condition #4 as written and in stead require
- b. a street Sub-out at Street 'E' Motion: Ostner; Second: Myres Vote: 9-0
- c. _____

Planning Commission Action:

☒ Approved ☐ Denied ☐ Tabled

Meeting Date: May 08, 2006

Comments:

Motion to approve: Graves
Second: Trumbo

Vote: 7-2-0 w/ Anthes & Myres voting no.

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature _____

Date _____



PC Meeting of May 8, 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: May 2, 2006

ITEM # PPL 06-1977: Preliminary Plat (Crystal Springs IV)

Requirements Submitted:

	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	85.18
square feet	3,710,568
Existing Tree Canopy	
acres	8.4
square feet	365,904
percent of site area	9.9%
Existing Tree Canopy Preserved	
acres	4.9
square feet	213,444
percent of total site area	5.8%
Percent Minimum Canopy Required	9.9%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site has less than 10% canopy cover. 29 of the trees are significant by City standards. Several of these 29 are located in close proximity to the project but on adjacent properties.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation should not occur on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Canopy removed will affect all adjacent property owners seeing that utility easements along the back of lots is proposed.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **Size and shape of the lot does not reduce flexibility of design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees is fair to good.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **Most canopy will be removed due to the installation of utilities and roads. The site has canopy spread out across it which makes it difficult to design around.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Many trees will be removed for the installation of public utilities and further maintenance.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **Roads and utilities have been designed to minimize impact on the existing topography. The existing canopy is unavoidable.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on the site to replace the 151,260 square feet of canopy removed. These mitigation trees will be extremely beneficial to this area.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- N/A

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

- 1. Mitigation is required in the amount of 350 (2) inch caliper large. Staff is recommending the Residential On-Site Mitigation Option. An on-site mitigation plan must be submitted at time of Final Plat for review and approval by the Urban Forester.**
- 2. A 3-year maintenance and monitoring bond in the amount of \$87,500 will be required for these trees.**



THE CITY OF FAYETTEVILLE, ARKANSAS

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

TO: Suzanne Morgan, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: April 25, 2006
SUBJECT: Parks & Recreation Subdivision Committee Comments

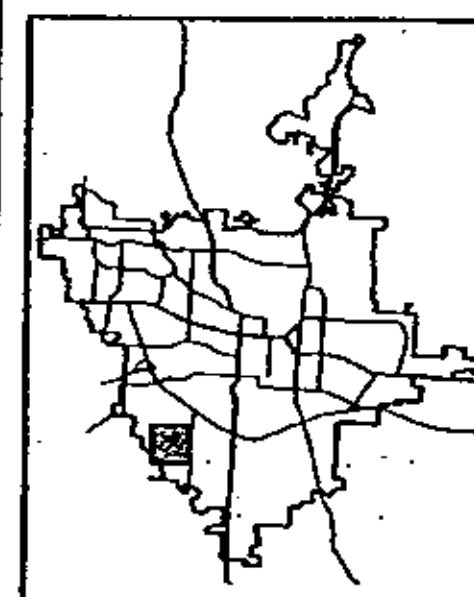
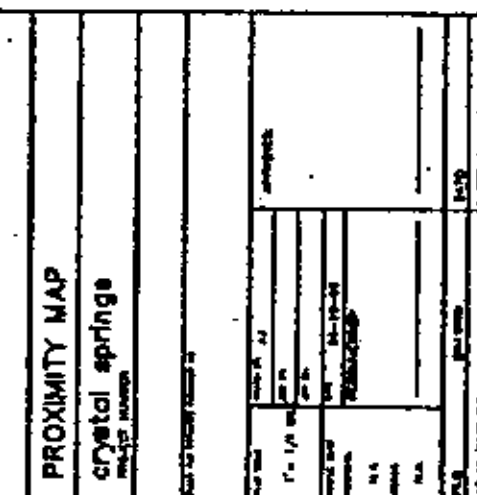
Meeting Date: April 27, 2006
Item: LSD 06-1977 (Crystal Springs IV)
Park District: NW
Zoned: RSF-4
Billing Name & Address: Milholland and JED, Inc C/O Greg Edwards

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	274 @ .025* acre per unit = 6.85 acres	@ \$555 per unit = \$
Multi Family	@ .017 acre per unit = acres	@ \$393 per unit = \$
Mobile Home	@ .024 acre per unit = acres	@ \$555 per unit = \$
Lot Split		@ \$555 per unit = \$
		Total = \$

COMMENTS:

- On July 15th 1994 a deed for 15.45 acres was received from Crystal Springs Limited Partnership satisfying the park land dedication requirements for this development. Below is a break down of the banked park land.
 - Phase I – Lots 1-112 = 112 units x .025 = 2.8 acres
 - Phase II – Lots 113-127 = 14 units x .025 = .35 acres
 - Phase III – Lots 128-229 = 101 units x .025 = 2.525 acres
 - Phase IV – 274 SF units proposed x .025 = 6.85Total Used = 12.525 acres - 2.925 acres remains.
*Land calculations are based the 1994 ordinance amount of .025 acres per single family Unit.
- Clabber Creek Trail is identified on the Fayetteville Alternative Transportation and Trail Plan and is shown along the northern part of this development. The developer has agreed to donate land for Clabber Creek trail corridor along northern property line of Crystal

Springs Phase IV. Legal description of land to be donated shall be submitted prior to final plat for review by Park Staff and Trails Coordinator.



Crystal Springs Phase IV

- Existing Park Land
Community Park Service Area
Neighborhood Park Service Area
Mini Park Service Area



Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CA

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

ENGINEER'S COST ESTIMATE FOR LEFT TURN LANE ON RAVEN LANE for traffic accessing onto Mount Comfort Road

70-foot by 12-foot wide roadway width expansion to the west side of Raven Lane to provide for a center left turn lane. Construction of the turn lane will included replacement curb and gutter, and drainage, and sidewalk.

Item No.	Description	Quantity	Unit	Unit Cost	Total Cost
1	Strip top soil and removal	30	cyd	3.25	105.00
2	Excavation of un-classified material to 2-foot sub-grade and removal	80	cyd	3.75	300.00
3	2" surface, 3" base, 6" SB-2, and 2-foot compacted Hillside material	95	sqyd	32.50	3,087.50
4	Standard curb and gutter	105	l ft	10.5	1,102.50
5	6-foot sidewalk	105	l ft	18.00	1,890.00
6	Extended drain tile	16	l ft	45.00	720.00
7	Lane striping and directional arrows	1	ls	450.00	450.00
8	Signage (stop, turn only, etc)	1	ls	700.00	700.00
9	Topsoil, sodding and finish up	50	sqyd	5.00	250.00
10	Traffic control	1	ls	800.00	800.00
	does not include land acquisition				
	TOTAL				\$9,405.00

Edwards Design & Construction, Inc.
2200 Highway 265
Springdale, AR 72765
479-751-9591
479-756-3325 Fax

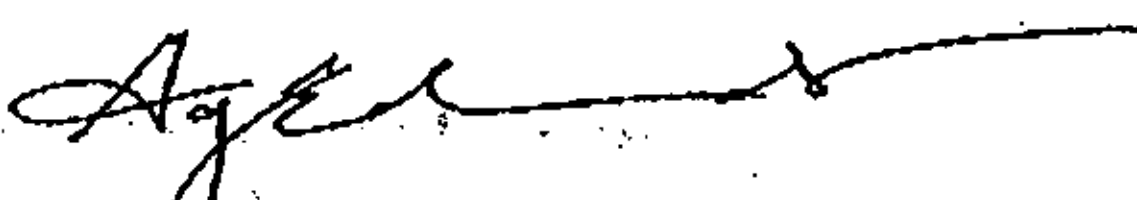
April 17, 2006

Mill Holland
Tom Jehcoat

Per our phone conversation Friday, April 14, 2006, I attempted to contact Mr. Terry Kimbrough whom has passed away. However, I did speak with his wife who told me that the Kimbrough Family had approximately 60 acres in trust in this general area.

I explained to her that the city had asked us to purchase enough right of way to extend Street B of Crystal Springs Subdivision and tie it to the street coming from the South. She told me she had no interest whatsoever in developing her property and did not wish to sell. I asked if I could contact her sons whom are trustees of the property and she told me their numbers were unlisted and she would have them contact me if they were interested. She also said none of the property would be sold or developed as long as she was living. If you have any questions please give me a call at 479-435-1048.

Sincerely,



Greg Edwards

From: "Les Kimbrough" <Leskim@cox-internet.com>
To: <smorgan@ci.fayetteville.ar.us>
Date: 4/15/06 1:13PM
Subject: Crystal Springs

Ms. Morgan,

Thank you for taking the time to explain to me the proposed connection through my property to Kenswick Ave. I understand the rational used in requesting this connection however I do not wish to participate in any way. I am not interested in selling property, or granting any easements whatsoever.

I would also like to register my strong objection to any stub outs on my family's property line. While I understand the need to fairly represent to prospective property owners the likelihood a street will continue through a given piece of property, I think that can be done contractually or via official city notification with out creating an eyesore for the entire community. Stub outs attract trash, yard waste, yard equipment, and provide easy access for children and other sight seers to trespass.

I have personally witnessed these problems on the stub out for Drakestone St. terminating in property owned by my mother.

I realize from the outside looking in you might wonder with the available space why I would have an objection. My reasons are as follows. For years now we have struggled with trash and construction debris blowing across our property on a daily basis. It went so far the city actually sent us a letter once requesting a clean up along Salem Road. Frankly I was furious because upon inspection it became quite clear to me this trash came from the construction site. I objected and requested the city do a better job of holding the developers accountable for their trash. That effort has been semi successful. As I sit today the road looks like a dump as does the South boundary of my property with trash blowing from the development along Mt. Comfort Road. My rational is simple. The farther away I can keep potential developers the better. I have witnessed a completely cavalier attitude toward existing property owners with improvements coming only after numerous demands and ultimatums. Honestly I am tired of them.

I do appreciate your professional attitude and competence in explaining the situation to me.

Sincerely,

Lesley Kimbrough.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

Providing stub-out streets onto a golf course is not desirable, in fact it is a hindrance, a hazardous condition. Such dead end streets will provide easy access that invite unwanted pedestrian traffic onto the course, it could encourage vandalism and damage to the course by vehicles including ATVs, trail bikes, etc. This will impose an undesirable condition.

Comments:

Assessments for the interim lift station shall be applied at the time of final plat, if deemed necessary at that time.

Acknowledged.

★ Provide information that the ROW for Gooseberry Lane. Has the applicant investigated the possibility of acquiring ROW from the adjacent property owners to have a street connection?

ROW information for that of Gooseberry Lane is shown correctly on the plat and is available as public data if you should need additional verification.

The adjacent property owners have not been formally contacted as to the sale of their property for the suggested connection. However, informal discussions with these property owners indicate a negative attitude to any development and especially to a connection that would increase traffic flow onto their current enjoyable cul-de-sack condition. That condition is one of the reasons they enjoy and of which they liked when purchasing their properties.

Staff recommends that the applicant hold a neighborhood meeting and/or attend a Ward 4 meeting to present this subdivision proposal.

Adjoining property owners have been contacted by letter. Neighborhood meetings with the Crystal Springs Neighborhood have taken place in the past and are knowledgeable that this continued development was taking place. Also, this project has been presented at Ward 4 meetings. Once it was presented as a re-zoning request with apartments near the golf course and prior to that as a future subdivision. Additional meeting may be warranted and necessary for current clarification and understanding that construction is near.

The POA shall be responsible for maintenance of the detention pond (include a note on the plat indicating this requirement).

Acknowledged. This note is added to the plat.

A receipt for street lights or installation of them is required prior to recordation of the final plat.

Acknowledged.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CA

RECEIVED

MAR 09 2006

PLANNING DIV.

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

March 6, 2006

Project No. E-640

Dear Property Owner:

This correspondence is to notify you that the City of Fayetteville is requiring the Owner/Developer of Crystal Springs, Phase IV, Crystal Springs Limited Partnership, to extend connection from the future subdivision development to your immediate north, to be straight in front of your property, home. This means that the present cul-de-sack arrangement will be eliminated (straighten), replace with curb and guttering, and your driveway extended from its present end location to the new roadway.

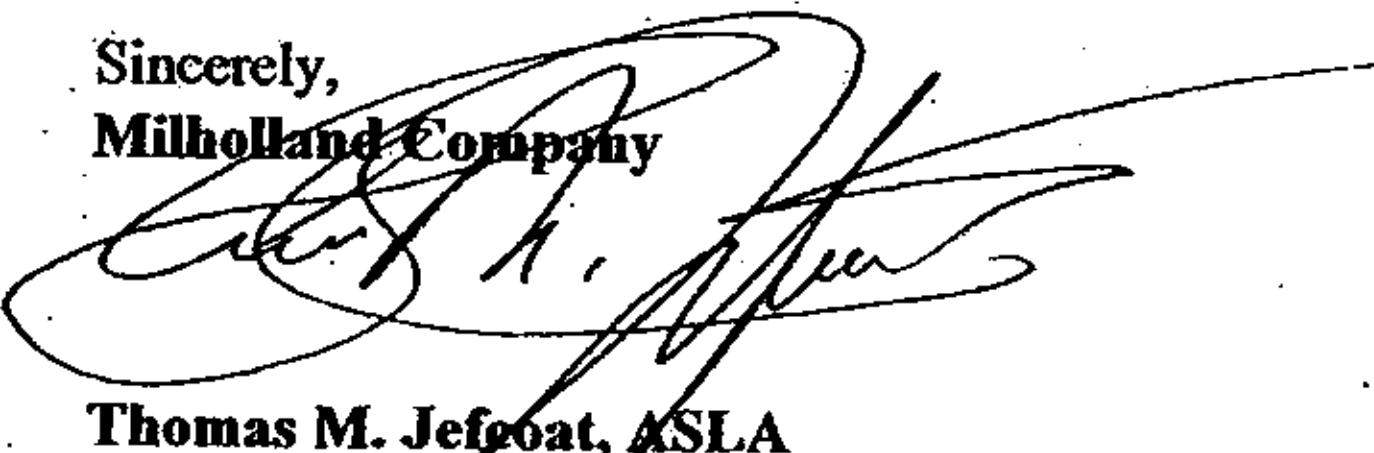
This is a City requirement of the developer. There is no cost of this construction activity to you. It is our understanding that the abandoned cul-de-sack area adjacent to your home will revert as your property. A Milholland Company, MCO, field survey crew may be in your home front yard locating your driveway and utilities (water meter, gas lines, electrical, etc.) for possible relocation caused by this requirement. Construction activities may begin early this summer.

Should you have concerns or questions, you may address them to the City's Planning Division, attention Suzanne Morgan, copy myself at Milholland Company. MCO will be glade to assist in your understanding of this requirement, and of the work that will take place.

Your acknowledgment, awareness and agreement, that this requirement will be constructed, affecting your property will be helpful.

Thank you for your cooperation and understanding in the meeting of this City requirement of the developer.

Sincerely,
Milholland Company


Thomas M. Jefcoat, ASLA
Senior Projects Manager

cc: Suzanne Morgan
Greg Edwards

EAE-640 CRYSTAL SPRINGS IV CORRESPONDENCE 06-03-06-cul-de-sack connection.wpd

205 W. Center St., Fayetteville, AR 72701; phone: (479) 443-4724; fax: 443-4707; e-mail: MCOengr@swbell.net; web:
www.mcoengr.com

Traffic Study

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the residential land use of the site are approximately 2,613 vehicle trips (combined in and out) per average week-day.
- The AM peak hour and the PM peak hour have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 205 additional vehicle trips will seek ingress and egress at the site during the AM peak hour and approximately 276 additional vehicle trips will seek ingress and egress at the site during the PM peak hour at full development of the site.
- There are future planned City of Fayetteville projects in the immediate vicinity of the site. There are future plans by the City to widen Mt. Comfort Road to a four-lane roadway from I-540 to west of Ruppel Road. Additional left-turn lanes are planned (as a part of this roadway widening) along Mt. Comfort Road at its intersections with Ruppel Road, Salem Road and possibly Deane Solomon Road (additional left-turn lanes are not to be included at Raven Lane). No timeframe for these improvements to Mt. Comfort Road has been determined.
- Analyses for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) were conducted for the adjacent street AM and PM peak hours. For the intersections included in this study all of the existing vehicle movements for existing traffic conditions presently operate at what calculates as an acceptable LOS "C" or better for the AM and PM peak hours except for the northbound vehicle movements on Stone Bridge Road at Highway 16 (LOS "F") with "Stop" sign control.

Traffic Study

- Analyses for projected traffic conditions were conducted at the intersections studied proposed to serve the site. Results of the analysis have indicated all of the vehicle movements at of the five intersections analyzed are projected to operate at an acceptable LOS "D" or better during the AM and PM peak hours except for the southbound movements on Raven Lane at Mt. Comfort Road during the AM peak hour (LOS "E"). With the City-planned improvements to widen Mt. Comfort Road to four lanes, the LOS "E" for the southbound movements on Raven Lane at Mt. Comfort Road is expected to improve to an acceptable LOS "C" during the AM peak hour.

Recommendations of this study are summarized as follows:

- It is recommended that the new streets be constructed as a part of this development to conform to the City of Fayetteville design standards which will also require approval by the City of Fayetteville.

From: Kevin Smith <Kevin_Smith@ivstaff.org>
To: <lljordan7@hotmail.com>, <ward4_pos1@ci.fayetteville.ar.us>
Date: 3/17/06 8:52AM
Subject: Making Gooseberry Lane a through street???

Hi there,

Today a neighbor came over and told me that she received a letter saying that the city is making Gooseberry Lane (on the west side of town off Mt. Comfort) a through street to make it easier for a developer to build past Gooseberry lane.

I am dismayed about this! Surely this isn't true. When we bought our house we went to our aldermen, Schafer and Heather Daniels, and we were shown a map that showed the plans for the future and it showed that gooseberry would not be a through street. Further they said that since there are a number of trees at the end of the street that would have to be cut down to make it a through street that the city would never cut those trees down since there are good options else where without cutting down trees.

When the city allowed the so called "Crofton Manor" development we were disappointed that these houses, that are behind our house, are so dissimilar to our neighborhood. Every house on Gooseberry (except a new one that some how snuck in a few year ago) is at least a 1/2 acre lot, ours is a full acre as are a few others. Yet Crofton Manor is 4 houses to the acre (I think, I'm not sure of the final count) - in other words not at all similar to the existing houses. The houses look fine enough it's just such a different kind of neighbor hood that it changes the character of Gooseberry.

Additionally, the construction of those houses destroyed what use to be a "natural fence" around my back yard. Bushes and trees use to line the back but the developer cleared his side of the yard, which of course damaged our side. Presently two trees have died from their work (they used a back hoe to clear the brush and dug, for some reason, around these trees). I've been meaning to ask how this fits into our city's tree ordinance.

Now apparently the city wants to cut down more trees to make a through street through a very nice quiet neighborhood. Please don't say this is sol

Mt. Comfort is already over taxed with traffic but now the city wants to make gooseberry a part of that. Gooseberry Lane a through street to a busy street where it is difficult to pull out already? A new development using our old development at their freeway? Won't this greatly reduce our property value?

Does there have to be a hearing before the city destroys our neighborhood's character? Can the city cut down trees and change a street without notifying us? So far only one neighbor received this letter!

Please let me know what's going on. Certainly this is a mistake - right? If not, please let us have some say in it - there are better options without further damaging a longtime existing neighborhoods. Maybe you would all like to come to our neighbor hood on a nice spring day and enjoy it's character.

Thank you in advance for your response.

Kevin Smith

PS: you may remember me when I contacted you last year when the Crofton Manor developer tore down our back fence to replace it with his new fence (which was fine with me) but they tore it down without replacing it for two weeks meaning I had a open back yard and two dogs were roaming free without us knowing it. You helped greatly fix that and I appreciate it. Please let me know about this Gooseberry Lane problem.

Kevin Smith
2299 Gooseberry Lane
Fayetteville AR 72704
479 601-1750

CC: <mayor@ci.fayetteville.ar.us>

Petition Against the Crystal Springs IV Development

The following signatures obtained from people residing in the Birdhaven Subdivision and surrounding area strongly oppose the Crystal Springs Development. We are against the development for several reasons.

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Signature/Name:	Address	Date
Anne Barton	2388 Raven Lane	4/11/06
Wallace D Reed	2398 Raven	4/11/06
Mary Reed	2390 Raven Lane	4/11/06
Donna Reed	2352 Raven	4/11/06
Woodcock	2338 Raven	4-11-06
Raymond Stargers	2340 Raven	4-11-06
Bill Rowland	2316 Raven	4/11/06
Therese Harris	2308 Raven	4-11-06
Angela Williams	2316 Raven	4/11/06
John E. Parson	2701 Dove	4/11/06
Rak Ball	2723 Dove	4-11-06
Quinn Ball	2723 Dove	4-11-06
Tracy Patrick	2733 Dove	4-11-06
Chad Patrick	2733 Dove	4-11-06
Barbara Noel	2747 Dove	4-11-06

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- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Signature/Name:	Address	Date
Kath A. Slater	2848 W. Quail	4-11-06
Gene H. Smith	2840 W Quail	4-11-06
Brian Wilson	2849 Quail	4-11-06
Jeremy Young	2357 Woodlark	4-11-06
Chris W. Allen	2397 Woodlark	4-11-06
Wanda Harris	2397 Woodlark	4-11-06
Marcia Overby	2399 Woodlark	4/11/06
W. Overby III	2399 WOODLARK	4/11/06
Waymond A. Harris	2397 Woodlark	4/11/06
Pat Davis	2833 West Quail	4/11/06
Bobbie Hutchins	2732 Quail Dr	4-11-06
Debra Wilson	2708 W. Quail Dr	4-11-06
Otto Lee Johnson	2717 W. Quail Dr.	4-11-06
Kyan Finley	2701 W. Quail Dr	4/11/06
Carri Finley	2701 W. Quail Dr.	4/11/06

Petition Against the Crystal Springs IV Development

The following signatures obtained from people residing in the Birdhaven Subdivision and surrounding area strongly oppose the Crystal Springs Development. We are against the development for several reasons.

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Signature/Name:

Address

Date

Alexander Bar	2816 Dove Dr	4/11/06
Herold L. Wight	2880 Dove Dr	4-11-06
Gary Kilpatrick	2333 Woodlark Ln	4-11-06
Sandra Kilpatrick	2333 Woodlark Lane	4-11-06
Therese Kough	2873 Wood Dr	4-12-06
Helena R. Dabney	2827 Dove Dr.	4-12-06
Joe & Pamela Rangel	2416 W. Montebello Dr	4-12-06
Leon Martin	2349 Woodlark	4-12-06
Bobbie Martin	2349 Woodlark	4-12-06
Jeffrey L. Myers	2325 Woodlark	4/12/06

April 24, 2006

City of Fayetteville Planning Office
Planning Commission Subdivision Committee
113 W. Mountain
Fayetteville AR 72701

Dear Subdivision Committee,

This letter is to notify the Committee of our opposition to the Crystal Spring Phase IV. We have lived in this neighborhood since it was built. We were one of four original families that formed our neighborhood. One of the reasons that we bought in this neighborhood was that it was small and that it did not have through streets. Thus, having very little traffic and making the neighborhood more safe and secure for families.

We recognize that developers have a right to build the project. However, we do not want to see our neighborhood swallowed up by this larger development and making Woodlark and Raven into busy streets that would connect the proposed project to Mount Comfort. Mount Comfort is already congested with traffic! The building of additional homes connecting these streets will not help with traffic on Mount Comfort. In addition, there are almost no sidewalks in our neighborhood and with the increased amount of traffic there would be no safe place for riding bikes and walking. One of the great features of our neighborhood is safety. Today, there are probably twenty or thirty cars coming and going on our street per day; however, if Woodlark becomes a connector street, then that number could easily increase to three or four hundred cars daily.

In closing, we do not want Woodlark or Raven to become through streets! Our neighborhood will not be the same if the Commission approves the Crystal Springs Project as it is planned.

Sincerely,

Jeffrey L. Myers / Karen Myers

Jeffrey and Karen Myers
2325 Woodlark Lane

March 17, 2006

Suzanne Morgan, City Planning Division
113 West Mountain Street
Fayetteville, AR 72701

Re: Gooseberry Street Extension

The reason I bought my house on this street 34 years ago is because it was a dead end street. There is no cul-de-sack on our street. I do not need my driveway extended or altered as I have spend several thousand dollars replacing my old one. You say there is No cost, it is my tax dollars being spent and for something I definitely do not want. I Think our tax dollars could be better spent on a need not a want.

If you want a thru street, go to Crofton Manor as it was just built. This used to be a nice Quiet neighborhood, I think everyone in that addition has a big dog that barks all night long, try listening to that and getting up at 5:15 A.M.

Herbert Holcomb is the man that plotted this addition and he designated that this was never to be a thru street that it was always to be a dead end street. I knew him and he told me this.

I will in no way support this. Enclosed are documents by Gooseberry Homeowners attesting to the fact that they want the street to remain a dead end. Everyone was in Agreement. Carl Strange and Jack Thompson were at City Planning yesterday. This Affects everyone on this street if it is no longer dead end so everyone should have received a letter.

I am hand delivering the originals to your office and copies to Milholland Company and keeping a set of copies.

I am requesting a written response to the decision on this from your office an also from Milholland Company.

Sincerely,

Bettie Patrick

Bettie Patrick
2361 Gooseberry Lane
Fayetteville, AR 72704
479-521-3749

cc: Thomas Jefcoat
Milholland Company

RE: Crystal Springs IV Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

RECEIVED

MAR 28 2006

PLANNING DIV.

Additional
Comments:

We urge the planning commission to deny this development.

Respectfully Submitted

Signature:

Carl P. Hill

Address:

*2841 W. Meadowlark Drive
Fayetteville, AR 72704*

Date:

3/27/06

RE: Crystal Springs IV Development

**TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701**

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional

Comments:

Please leave Birdhaven
Subdivision as is. Find another way
to connect to Crystal Springs.
Keep out of Birdhaven.

We urge the planning commission to deny this development.

Respectfully Submitted

Signature:

Richard Noyce

Address:

2862 Meadowlark Dr.

Date:

3-3-06

RICHARD and LORNA NOYCE
2862 MEADOWLARK DRIVE
FAYETTEVILLE, AR 72704 U.S.A.

RE: Crystal Springs IV Development

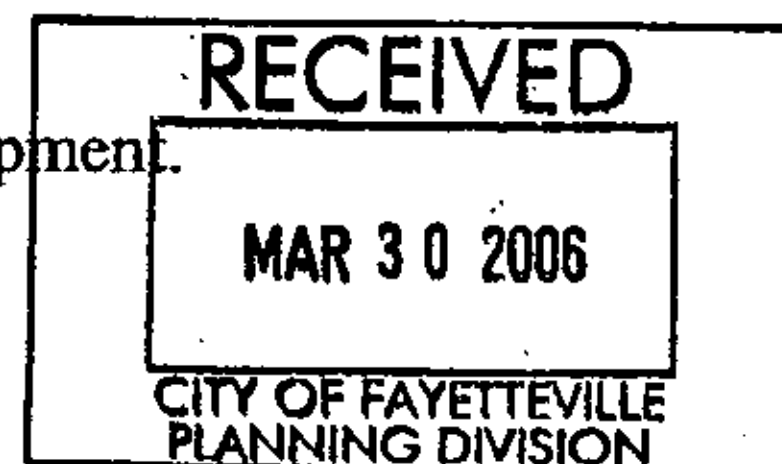
**TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701**

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- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional
Comments: _____

We urge the planning commission to deny this development.



Respectfully Submitted

Signature: Rhonda Persans

Address: 2701 W. Dave Dr. Jay, AR 72704

Date: 3/30/06

John E Persans

RE: Crystal Springs IV Development

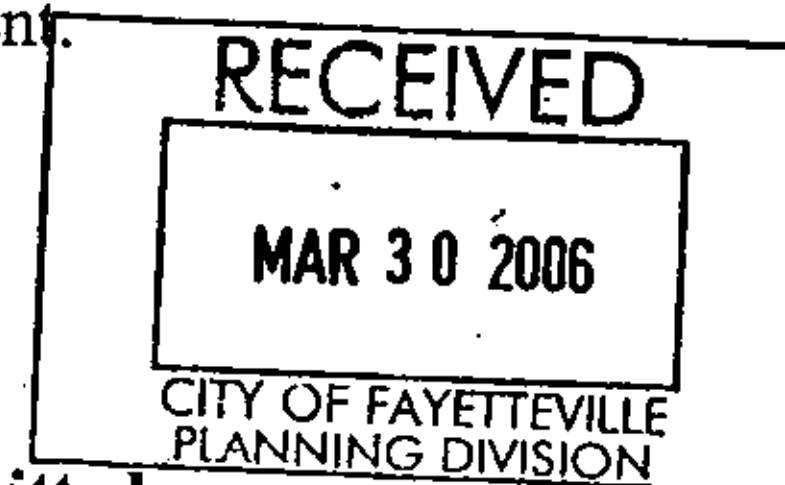
**TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701**

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- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional
Comments: _____

We urge the planning commission to deny this development.



Respectfully Submitted

Signature: [Handwritten Signature]

Address: 2825 Quail Dr.

Date: 30 March 06

RE: Crystal Springs IV Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision, and quality of life of the citizens who live here.

Additional

Comments: THE TRAFFIC IS ALREADY TO BAD. IT
WOULD RUIN OUR NEIGHBORHOOD. THE
QUALITY OF LIFE WOULD GO DOWN DRASTICALLY.
THE NOISE LEVEL OF TRAFFIC IS ALREADY TOO
HIGH.

We urge the planning commission to deny this development.

Respectfully Submitted

Signature: Trinity K. Wright

Address: 2825 Meadowlark

Date: 4-3-08

RE: Crystal Springs IV Development

**TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701**

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- * • Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional

Comments:

I live on Woodlark Lane and DO NOT want it connected because of the large increase in traffic. Crystal Springs developers could put a park or club house on that lot and leave Woodlark & Raven as dead

We urge the planning commission to deny this development. end streets.

Please don't open birdhaven streets.

Respectfully Submitted

Signature:

Debbie Mendenhall

Address:

2241 Woodlark Lane

Date:

April 9, 2006

**RECEIVED
APR 12 2006
PLANNING DIV.**

RE: Crystal Springs IV Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

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PLANNING DIV.

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional

Comments: My family moved into this neighborhood because it was quiet and there was not any traffic. This subdivision would ruin the charm and tranquility of this neighborhood. We will fight it all the way. Find somewhere else to build!!! Thank you.

We urge the planning commission to deny this development.

Date 3/28/06

RE: Crystal Springs Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

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Additional

Comments: Our Street want accomodate the traffic
of 274 additional homes and we can
hardly get on Mt. Comfort near we have
a nice neighborhood please don't ruin it-

We urge the planning commission to deny this development.

Respectfully Submitted

Signature: Leon Martin

Address: 2349 Woodlark

Date: 3-25-06

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RE: Crystal Springs IV Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional
Comments:

*I love this Birdhaven
Neighborhood. It is quiet and
tree-lined. I've lived in this neighborhood
for 12 years, my home is paid in full.*

We urge the planning commission to deny this development.

Respectfully Submitted

Signature:

Mildred Montague

Address:

2813 Stone Dr. City

Date:

Mar. 27, 2006

RE: Crystal Springs IV Development

**TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701**

**RECEIVED
MAR 28 2006
PLANNING DIV.**

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to ~~the Birdhaven Subdivision~~ and quality of life of the citizens who live here.

Additional

Comments:

All of the above, do you know
how hard it is already just to get on
Mt. Comfort.

We urge the planning commission to deny this development.

Respectfully Submitted

Signature: Redell & Laune Thompson

Address: 2807 Meadowlark Dr.

Date: 3/25/06

RE: Crystal Springs IV Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

RECEIVED
MAR 28 2006
PLANNING DIV.

I oppose the Crystal Springs IV Development for the following reasons:

- ✓ • Traffic Issues with connections using Raven and Woodlark.
- ✓ • Lack of street improvements to Mt. Comfort and Ruppel Rd
- ✓ • Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

All of the above and...

Additional

Comments: We do NOT want the streets Woodlark and Raven to open. If these roads are opened, the traffic overload will be too much for our neighborhood. I am very concerned that this neighborhood will turn into a traffic disaster. Mt. Comfort Road is already over populated with traffic. This is a neighborhood, please keep it that way. We urge the planning commission to deny this development. and find another way. I am sorry I can not be at the meeting. I have to work.

Respectfully Submitted

Signature: Barbara Waselues

Address: 2863 Quail Drive (corner of Quail & Woodlark)

Date: March 26, 2006

RE: Crystal Springs IV Development

TO: Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701

RECEIVED
MAR 28 2006
PLANNING DIV.

I oppose the Crystal Springs IV Development for the following reasons:

- Traffic Issues with connections using Raven and Woodlark.
- Lack of street improvements to Mt. Comfort and Ruppel Rd
- Impact the street connections will make to the Birdhaven Subdivision and quality of life of the citizens who live here.

Additional

Comments:

We have so much traffic already on Mt. Comfort - I cannot imagine a new influx of traffic through my neighborhood

We urge the planning commission to deny this development.

Respectfully Submitted

Signature: *Bill Rowland*

Address: *2316 RAVEN LN.*

Date: *FAYETTEVILLE, AR 72704*
3/27/06

March 16, 2006

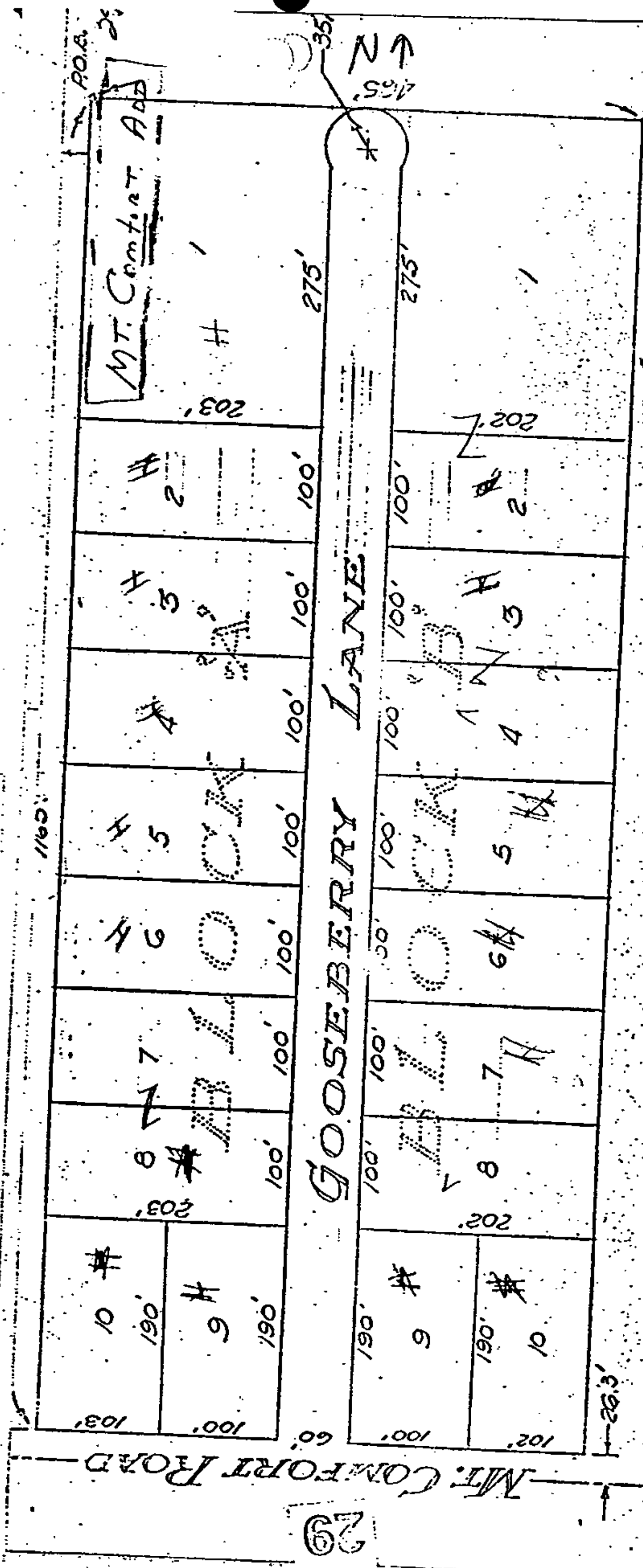
Suzanne Morgan, City Planning Division
Thomas Jefcoat, Milholland Company

This is a list of Homeowners on Gooseberry Lane, Fayetteville, AR that want this street to continue as a dead end street. Also included are signed documents:

B.J. Shell	Sue Howerton	Phyllis Smith	Ken Young	Evelyn Smith
Everett Evans	Jack Thompson	Carl Strange	Bettie Patrick	Jane Williams
Terry Carpenter	Mike Freeman	Vicki Stafford	Kevin Smith	Dan Worley

Carl Strange and Jack Thompson were at a meeting on this today.

Bettie Patrick
2361 Gooseberry Lane
Fayetteville, AR 72704



3600 N

3500 N

3400 N

3300 N

3200 N

3100 N

4	2399	
5	2397	
6	2389	
7	2313	
8	2357	
9	2349	
10	2333	
11	2325	
12	2317	
13	2301	
14		

1	2	3	4	5	6	7	8	9	10	11
2880	2874	2870	2866	2862	2858	2854	2850	2846	2842	2838

ROBIN CROWN DRIVE (Boulevard Drive)										
22	21	20	19	18	17	16	15	14	13	12
2825	2819	2815	2811	2807	2803	2799	2795	2791	2787	2783

DOVE DRIVE										
22	21	20	19	18	17	16	15	14	13	12
2815	2809	2805	2801	2797	2793	2789	2785	2781	2777	2773

MEADOWLARK DRIVE										
22	21	20	19	18	17	16	15	14	13	12
2805	2799	2795	2791	2787	2783	2779	2775	2771	2767	2763

3000 N

From: Bill Rowland <browland@uark.edu>
To: <planning@ci.fayetteville.ar.us>
Date: Tue, Apr 25, 2006 12:58 PM
Subject: re: Crystal Springs developement Phase IV

My name is Bill Rowland, and I reside at 2316 Raven Lane, the neighborhood that will be impacted as an outlet for the proposed developement north of our home. I will be unable to attend the meeting, since you are choosing to have it during working hours, but I wanted my voice to be heard.

This is a terrible idea for the residents of my neighborhood and the quality of life there. We will unable to walk the streets in safety and our children's well being will be in question. I already sit behind three or more cars when I try to exit the neighborhood onto Mt. Comfort, with a several minute wait to do so, and with 200 more homes in addition, with maybe anywhere from 200 to 400 or more vehicles impacting the streets, I could well envision a string of 20 or more cars attempting to exit onto Mt. Comfort. Not to mention the increase in traffic right in front of my dwelling.

Please try to place yourself in our position, would you really want that type of increase in the traffic in your own neighborhood? I am in extreme opposition to this proposal. Thank you for your time.

Bill Rowland

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YAHOO! MAIL

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Trash	[Empty]

This message is not flagged. [[Flag Message](#) - [Mark as Unread](#)]

[Printable View](#)

Date: Fri, 14 Apr 2006 13:58:39 -0700 (PDT)

From: "Ann Barton" <amailbox4ann@yahoo.com>

Subject: New subdivision at the end of Raven Lane

To: ward4_pos1@ci.fayetteville.ar.us

CC: lljordan7@hotmail.com

See your credit score: \$0

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Dear Sir and Madam,

I am writing to you to express my concern about a new subdivision that will be going in near my home. As I understand it, this new construction will mean my street, Raven Lane, and another street in my neighborhood, will be extended to give access to this new neighborhood. This is a very bad idea and I would like to tell you why I feel this way.

I own and live in a duplex near the end of Raven Lane. I can look down the cross street from my front door. Many days, I can see children and teenagers playing in their front yards or playing catch in the street. This will not be safe with additional traffic.

Individuals walk their dogs and walk for exercise in the neighborhood. The increased traffic the new subdivision will not allow for this to occur safely as there are no sidewalks.

The East side of Raven Lane is made up of almost all duplexes. If each duplex is like mine, both sides are two bedroom units. That means there could be 4 drivers living in each duplex. Each drive way allows for a car to be parked at each front door and two cars in the turn around spot. If there are 4 cars, in order to get out of the driveway, the driver must back out into the street. This will be more dangerous than it already is if Raven Lane is extended and traffic is increased.

On the same subject of parking, if all 4 cars are at home and a guest comes to visit, that car must park on the street. Additional traffic will not be good for our street as the road is not very wide.

Have you ever tried to pull out onto Mt. Comfort in the morning or during the evening traffic? If you have, you will understand why I don't want unneeded, additional traffic on Raven Lane.

My neighborhood is one of those great older neighborhoods because there are so many different styles of homes. It is a quite neighborhood. I love my neighborhood. It is my home now. I was born in and have lived in Fayetteville for almost 30 years. I have tried to improve the appearance and value of my home. I understand that growth is great for the area economy. It does not need to hurt existing neighborhoods.

Making Raven Lane a through street will ruin my neighborhood. There has got to be a better

alternative.

Thank you for giving your time to hear my opinion and for representing our part of Fayetteville.

Sincerely,
Ann Barton
2388 Raven Lane
Fayetteville, AR 72704
479-841-8485

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From: "Susan Pomoransky" <spomoransky@mwyusa.com>
To: "smorgan@ci.fayetteville.ar.us" <smorgan@ci.fayetteville.ar.us>
Date: 4/26/06 2:29PM
Subject: CRYSTAL SPRINGS 4 SUBDIVISION

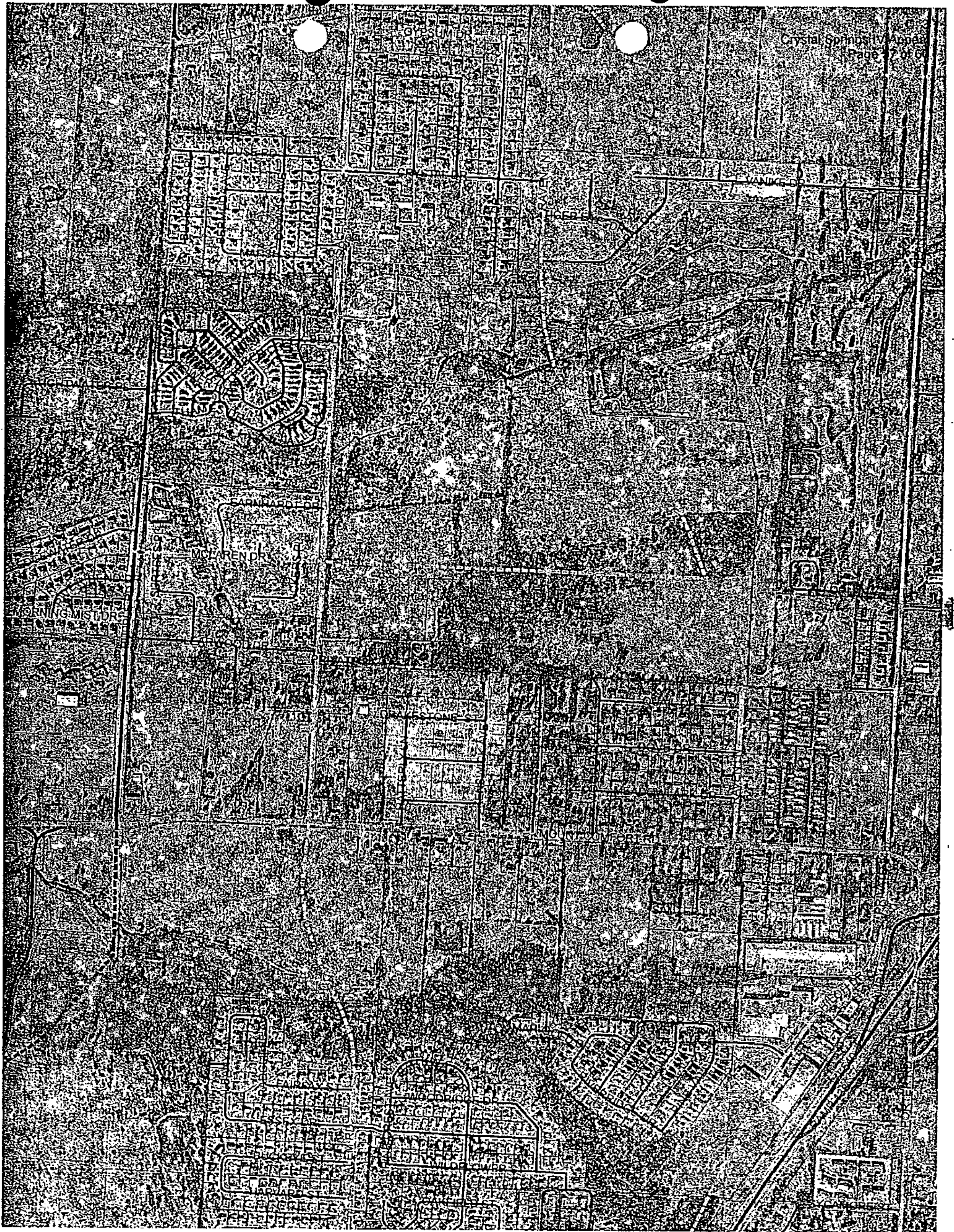
Suzanne and Planning Commission:

I am writing in regards to this meeting on the 27th at 9 A.M. First of all: Not all of us whom would like to be there; can just take off of work and go to this meeting. Can you not change it's time??? There is a lot of us who would like to voice our option. You gave another big builder a special hearing can't we ask for that too???

I am concerned with the idea of you all wanting to open up the cul-de-sac on Raven Lane and Woodlark Lane being opened as an outlet for the 274 Homes that are purposed to be built. This will increase the traffic in our small streets and neighborhood. We are an established neighborhood and have no sidewalks or any kind of green space. Our children play in the streets and we have no problems with that at all. No speeders and our school buses come into our neighborhood to pick up children, because us as concerned parents refused to let our children stand on Mt. Comfort Road because of the danger. Now, the planning commission wants to open up these roads as outlets. This will increase the danger to our children and our neighborhood. We can not handle 400 to 600 cars every morning and night. We have a hard enough time getting out on Mr. Comfort Road as it is. This is our only outlet. Sometimes, the traffic is really tied up there. No improvements have been made on Mt. Comfort Road or any other road near by. You all have let so many subdivisions go in and no improvements to the roads. It doesn't take a someone with a college education to figure it out more homes going in sooner or later you have to build or improve the old roads. You know as well as I do that with 274 purposed houses going in will have at least 2 -3 cars per house hold (546 cars if 2 cars per house/ or 3 per household will be 822 cars) and then if you get families moving in together or students you can bet on at least two or three more vehicles per house hold. Do you think our streets can handle that??? So, you see, we will truly have a much bigger problem. Mt. Comfort is already crowded and so is Salem Road and so is Ruppel Road. When the new school went in off of Ruppel Road that road was supposed to be straightened out and fixed. That still hasn't happened and a new housing addition is going in there now. These roads need to be improved. Can you not find another outlet somewhere else for the Crystal Springs Subdivision # 4.??? Please do not ruin our nice neighborhood.

Susan Pomoransky

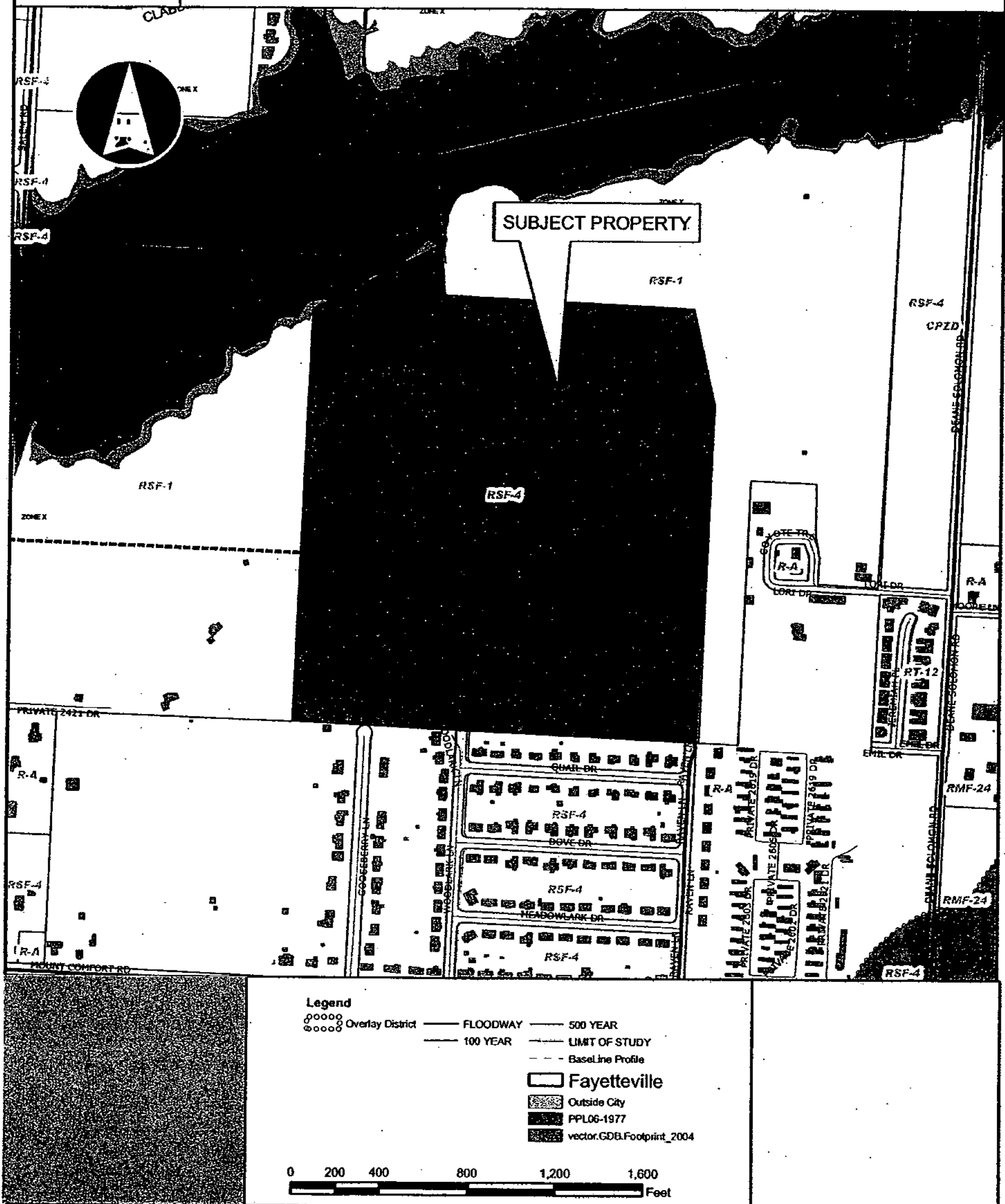
2732 Meadowlark Lane



PPL06-1977

Close Up View

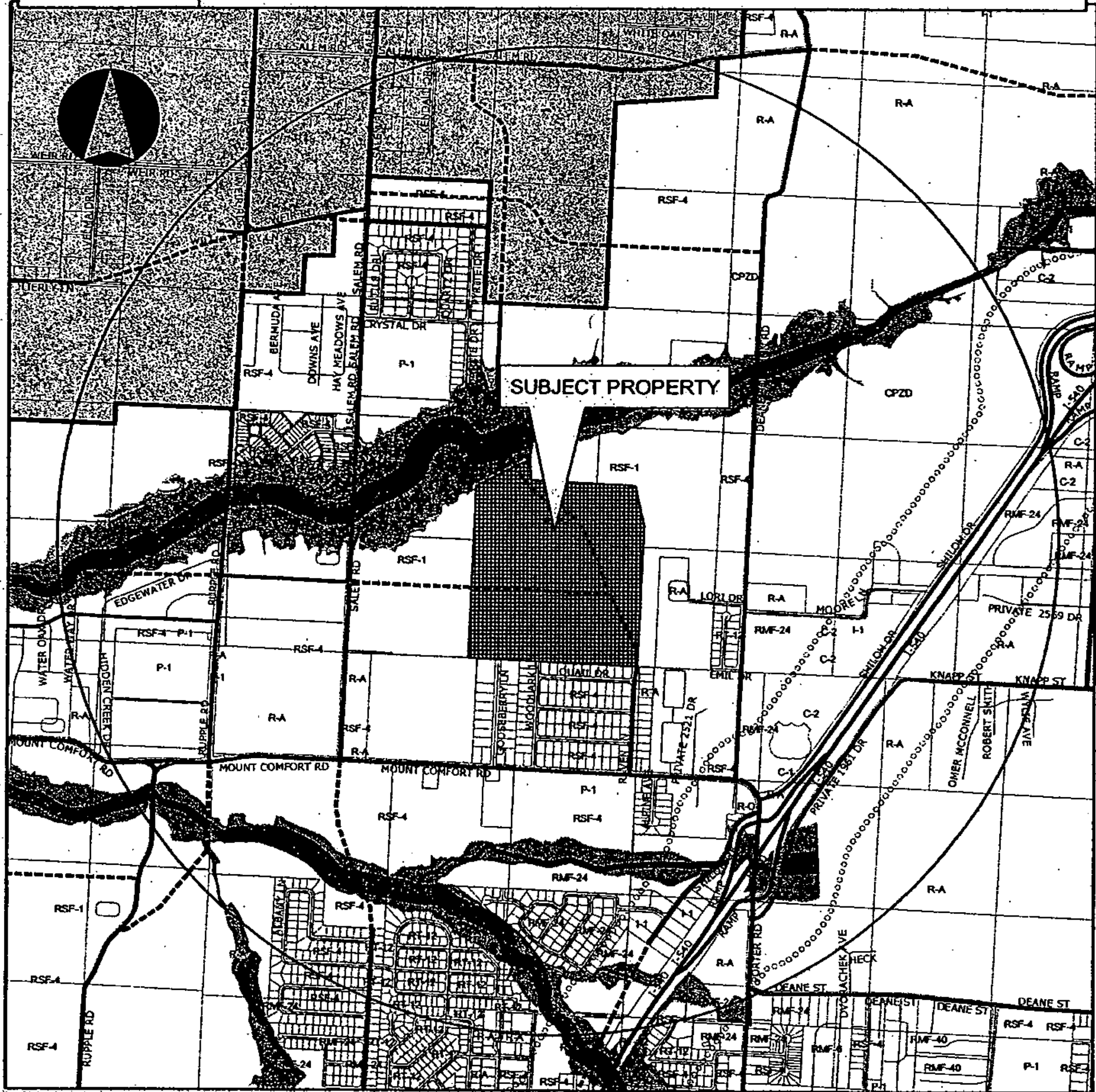
CRYSTAL SPRINGS IV



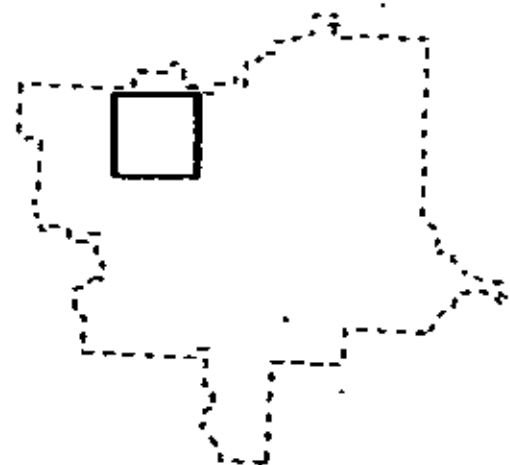
PPL06-1977

CRYSTAL SPRINGS IV

One Mile View



Overview



Legend

Subject Property

PPL06-1977

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
Contracts

6-Jun
City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Approve two applications to the Arkansas Department of Aeronautics for Grants in the amount of \$500,000. Approve grant acceptance contingent on Dept Aeronautics Commission approval. Approve the financing plan for the City of Fayetteville to provide \$700,000 match to construct two (2) hangars at the West-side General Aviation Apron. Approve Budget Adjustments.

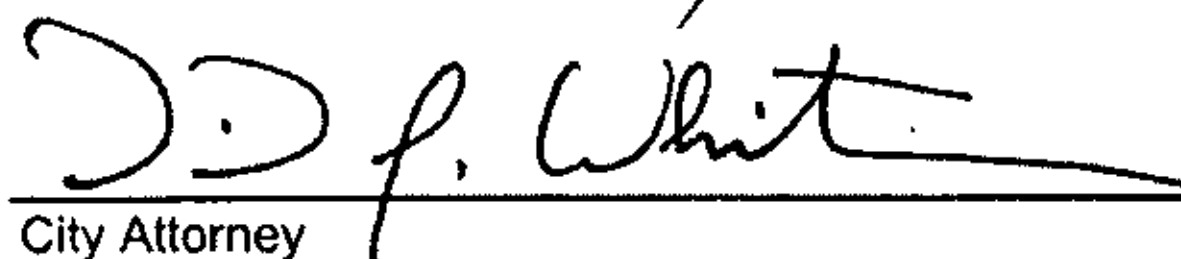
REVENUE		
\$500,000.00	\$ 128,437.00	West GA Hangars
Cost of this request	Category/Project Budget	Program Category / Project Name
5550.0955.6805.00	\$ -	Airport Revenue
Account Number	Funds Used to Date	Program / Project Category Name
06023	\$ 128,437.00	General Fund / Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐ Being developed


Department Director 5/15/06
Date

Previous Ordinance or Resolution # 83-06
T.O. #14 w/ MCE

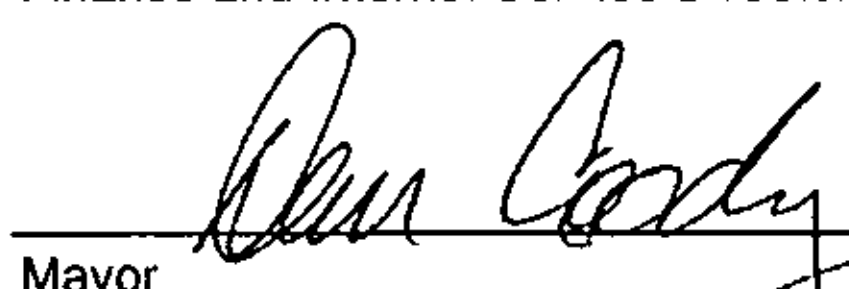
Original Contract Date: _____


City Attorney 5/22/06
Date

Original Contract Number: _____


Finance and Internal Service Director 5-23-06
Date

Received in City Clerk's Office
ENTERED
5/19/06


Mayor 5/23/06
Date

Received in Mayor's Office
ENTERED
5/23/06

Comments:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: May 17, 2006

SUBJECT: Approve application and acceptance of two (2) \$250,000.00 Arkansas Department of Aeronautics, State Airport Aid Grant (SAAG) grants for a total amount of \$500,000.00 and approve the financing plan for the City of Fayetteville \$700,000.00 match to construct two (2) Corporate Hangars on the new West Side General Aviation Apron.



RECOMMENDATION: Approve application and acceptance of two (2) SAAG Grants totaling \$500,000.00 and the financing plan to cover the \$700,000.00 City of Fayetteville match for the construction of two Corporate Hangars adjacent to the new West Side General Aviation Apron. Signature of the Mayor.

BACKGROUND: All Airport hangars are full. Our Airport continues to grow at an unprecedented rate, mirroring the entire region. One recently vacated 9,000 square foot hangar garnered three potential tenants. We have signed leases for the two new hangars we want to build. Recently, we were able to convince the FAA Contract Tower Department to lower our cost share for the Air Traffic Control Tower (ATCT) due to the unprecedented growth. In April, the airport was selected Arkansas Airport of the Year by the FAA District Office in Ft. Worth, TX for management of the growth and successful rebirth as a General Aviation Airport. We need to continue this momentum.

While we have successfully changed from commercial to general aviation, the fact that we were primarily a commercial airport means that we need to play catch up development to build the general aviation infrastructure needed to support the citizen and transient aviation customer. We need the buildings to continue to grow activity and based aircraft. A secondary purpose, but equally important, is to take advantage of the economic growth of the region today to contribute to the cash flow needed to sustain the airport financially. **More facilities for aircraft--more cash flow to the airport.**

The Mayor, the City Council, the Airport Board and the Airport staff are committed to redevelop our airport into the first class general aviation airport that it is capable of becoming. With continued development like these new hangars, it is eventually possible to make the airport self sustaining in terms of cash flow. We have an opportunity now to leverage State grant dollars and need additional capital investment to help.

Our investments thus far have purposefully been tied to future growth and revenue development. A ground lease to construct a hangar is possible but most investors are unwilling to build a building on property they do not own. While ground leases produce activity and based aircraft, they produce very little revenue. At \$.07 per square foot per year for a long term ground lease, each building would contribute \$980.00 a year. There is additional revenue with each additional aircraft based at the airport in the terms of fuel flowage fees and reductions to the Tower cost share, but the budget impact of ground leases is minimal.

A financing package that includes State Grant funds and City of Fayetteville General Fund or Economic Development Project financing would result in acquisition of the buildings providing additional aircraft on the field consuming fuel and contributing to the tower count and substantial cash flow to the Airport Fund.

The Airport staff recommends developing a loan from City of Fayetteville resources for the remaining \$700,000 to construct these two hangars. The loan is proposed to be amortized over fifteen years at a fixed rate of 5%. Airport staff has commitments for these two hangars that will generate approximately \$7,600 monthly. This rent revenue is sufficient to fund the loan amortization and provide an additional \$2,000 monthly for Airport operations.

The situation in a list:

- All hangars are full and we have a waiting list
- Future growth is predicted @ approximately 10% a year
- We have momentum
- There are local competitors who will fill the void if we don't
- We need additional cash flow to pay our cost allocation
- The opportunity exists now for \$500,000.00 in SAAG money
- Several aviation businesses are interested in leasing the hangars
- The airport must prepare for future growth needs
- As a former commercial airline facility, the airport has minimum GA infrastructure, and thus, must play "catch-up" development.
- Hangar development is costly and is not Federally funded

DISCUSSION: Over the last four years Fayetteville Municipal Airport, Drake Field has successfully developed into a first class General Aviation Airport. We have increased activity, based aircraft, fuel sales, employees on the field, hangars, ramp space, taxiways and significantly improved our reputation in the industry. We have created an environment where everyone wants to be part of the success. In every step, we have considered the impact of our actions on the budget and our ability to fully fund the O & M Budget.

Last year Million Air became the Fixed Base Operator for Drake Field to provide services for fuel, customer and line service. They are in the process of investing in the remodeling effort currently underway at the Terminal.

The contract with Million Air allowed us to eliminate three staff and the budget that supported the City managed FBO operations. It also reduced the revenue from sales to a flowage fee and rent but we anticipate that this change will result in a net positive to the

budget. The attached chart reflects the steady decline in budget deficit over the last four years. We have projected 2006 where you will note the reduction in revenues and expenses due to the new FBO arrangement. The Hangar Construction Project will increase Airport Fund revenues by \$24,000.00 a year in rent and depending on the aircraft that finally locate in the buildings, an additional \$2,500.00 to \$5,000.00 annually in fuel flowage fees.

BUDGET IMPACT: We have the opportunity to leverage \$500,000.00 in State 50/50 SAAG grant funds. We need to finance \$700,000.00 in grant matching funds at 5% for 15 years. Funding for the Engineering and Construction management, Task Order #14, with MCE for \$105,450.00 will be paid out of the Airport Fund. The lease revenue from the hangars will pay the debt service and provide approximately \$24,000.00 cash flow to the airport fund. With this project and other actions being considered by the Airport Board in Strategic Planning sessions, Airport Staff projects significant reduction in the projected deficit for FY 2007.

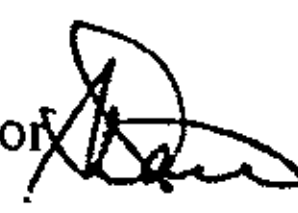
Attachments: Staff Contract Review Form
Budget Chart 2001-2006
Grant Applications

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor and City Council

THROUGH: Stephen Davis, Finance & Internal Services Director 

FROM: Marsha Farthing, Interim Finance & Internal Services Director 
Kevin Springer, Budget Manager 

DATE: May 23, 2006

SUBJECT: Financing options for two Corporate Hangars

Background

Airport staff has submitted an agenda item requesting approval of two Arkansas Department of Aeronautics State Airport Aid Grants for a total of \$500,000, with a \$700,000 cost share loan from other funds of the City, to build two corporate hangars at the Fayetteville Municipal Airport. The proposal from Airport staff recommends a 15 year loan at 5% annual interest. This memo addresses the various financing options available to fund the \$700,000 loan requested from other City funds.

Options

- 1) One option is to allocate resources from General Fund using current available fund balance. The monthly payback for a \$700,000 loan @ 5% would be \$5,535.56 (\$66,426.72 annually).
- 2) A second option is to use a portion of the remaining \$2,364,327 in Wilson Springs funds designated for economic development to fund the loan. These funds could also be used to finance the total \$700,000 cost match for the hangars without using a loan.
- 3) The Sales Tax Capital Improvements Fund can be used for financing the project using a loan or to pay for the total cost share. Since all Sales Tax Capital Improvement funds have been identified for specific projects, a decision will need to be made on which project or projects would be delayed or removed from the CIP to fund the loan or payment for airport hangars.
- 4) A final option would be to issue Amendment 65 revenue bonds in the Airport Fund to finance the project.

Conclusion

Finance staff has no preference for financing the project.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AIRPORT STAFF TO APPLY FOR AND ACCEPT TWO (2) SAAG GRANTS IN THE AMOUNT OF \$250,000.00 EACH FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS TO FUND A PORTION OF THE COST TO CONSTRUCT TWO (2) CORPORATE HANGARS AT THE FAYETTEVILLE MUNICIPAL AIRPORT; APPROVING THE FINANCING PLAN TO COVER THE CITY'S MATCH OF \$700,000.00; AND APPROVING BUDGET ADJUSTMENTS RECOGNIZING THE GRANT REVENUES.

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 Airport staff to apply for and accept Two (2) SAAG grants in the amount of \$250,000.00 each from the Arkansas Department of Aeronautics to fund a portion of the cost to construct two (2) corporate hangars at the Fayetteville Municipal Airport.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the Financing Plan to cover the City's match of \$700,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves Budget Adjustments recognizing the Grant Revenues.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

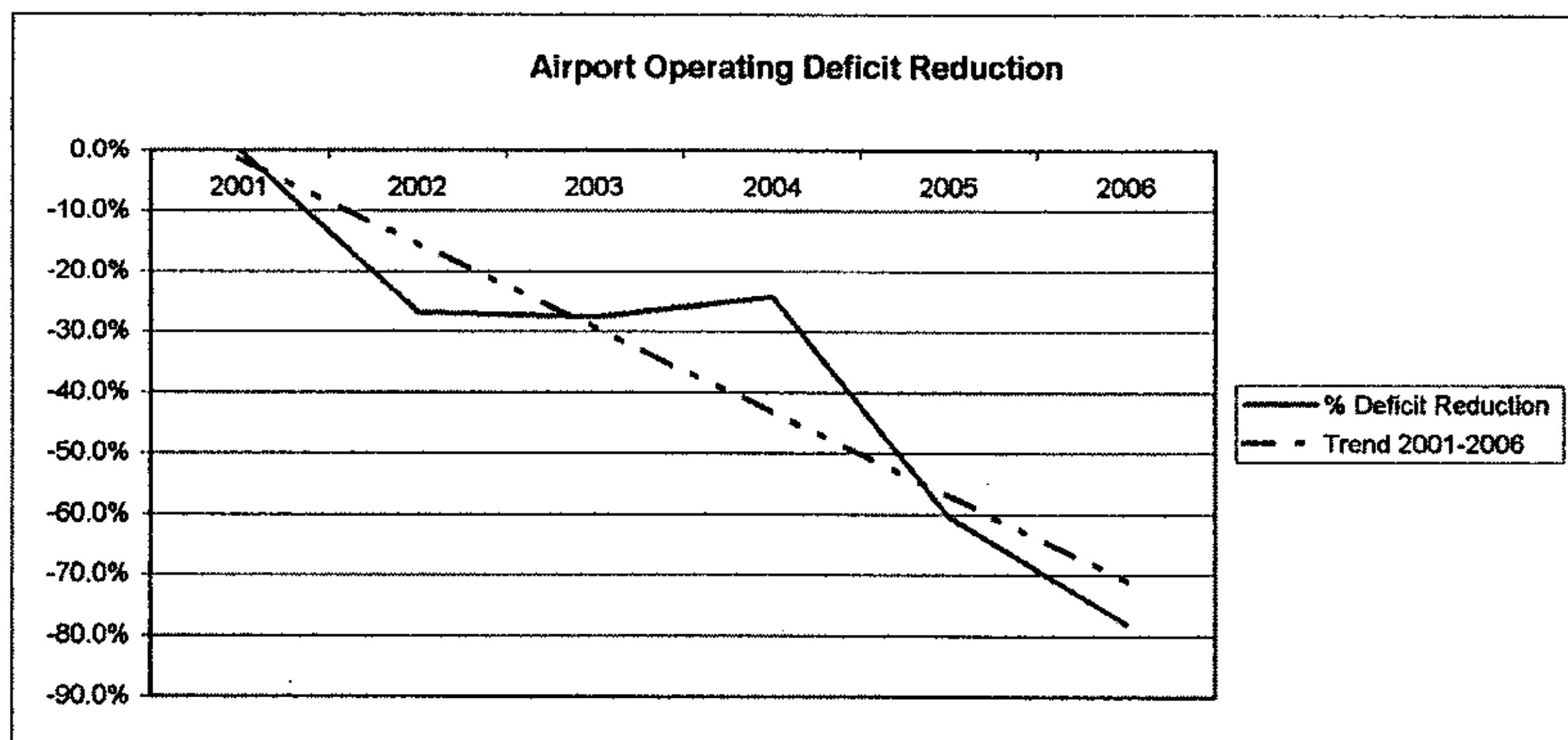
ATTEST:

By: _____

SONDRA SMITH, City Clerk

CITY OF FAYETTEVILLE
FAYETTEVILLE MUNICIPAL AIRPORT
AIRPORT OPERATING DEFICIT 2001-2005

	2001 Actual	2002 Actual	2003 Actual	2004 Actual	2005 Actual	2006 Projected YE
Operating Revenue						
Rents & Leases	265,146	287,035	319,135	374,643	407,191	491,056
Aviation Fuel	162,489	499,471	713,711	802,711	753,846	193,550
Contract FBO				-	15,204	53,125
FEMA Reimburse				15,110	-	-
Miscellaneous	3,466	16,461	28,411	33,398	42,707	4,868
Total Operating Revenue:	431,101	802,987	1,061,257	1,225,862	1,218,948	742,599
Operating Expenses						
Personnel	276,468	312,807	360,960	385,841	335,755	297,286
Materials & Supplies	3,929	12,464	34,777	27,416	29,141	17,334
Aviation Fuel Purchases	115,390	320,641	464,840	585,989	571,919	126,890
Services & Charges	167,072	179,982	239,191	246,273	200,980	155,794
Cost Allocation to General Fund	137,724	144,612	144,612	151,800	132,684	132,684
Maintenance	49,401	48,874	55,833	78,171	56,195	61,391
Operating Capital / Equipment	10,784	25,206	-	-	-	-
ATC Tower Costs	-	-	-	-	22,654	23,337
Total Operating Expense	760,770	1,044,586	1,300,213	1,475,490	1,349,329	814,716
Change In Fund Balance from Operations	(329,669)	(241,619)	(238,956)	(249,628)	(130,381)	(72,117)
Annual Percentage Change	0.0%	-26.7%	-1.1%	4.5%	-47.8%	-44.69%
Cumulative Reduction of Ops Deficit Since 2001	0.0%	-26.7%	-27.5%	-24.3%	-60.5%	-78.12%



ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

The City/County of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the City of Fayetteville, Arkansas, Washington County.

Date of Request: May 19, 2006

Name of Airport: Fayetteville Municipal Airport / Drake Field (FYV)

Name and address of City/County Commission sponsoring request:

City of Fayetteville Person to contact about project:
113 West Mountain St. Ray M. Boudreaux, Director
Fayetteville, AR 72701 4500 S School Ave, Suite F

Phone/Fax Number: 479-718-7642 Phone/Fax Number: 479-718-7646

Name and address of Engineering Firm (If Applicable):

McClelland Consulting Engineers Contact Person: Wayne Jones

Phone/Fax Number: 479.443.2377 / 479.443.9241

Describe the work to be accomplished: Construct 80' X 120' corporate hangar.

State and Local Project Costs:
Please indicate: x 50-50% Match
 75-25% Match
 90-10% Match

Federal AIP Projects:

Total Cost of Project	<u>\$ 652,725.00</u>	Total Cost of Project	<u>\$</u>
Local Share/Funds	<u>402,725.00</u>	Federal Share (90%)	<u>\$</u>
Local Share/In-Kind	<u> </u>	Local Share (5%)	<u>\$</u>
State Share	<u>250,000.00</u>	State Share (5%)	<u>\$</u>

State Airport Aid Application
Page Two

Provide the information listed below as it applies to your project:

FUNDS:

Source of Funds:

State Funding: Arkansas State Department of Aeronautics

Local Funding: Fayetteville Municipal Funds, Airport Div, City of
Fayetteville debt financing.

Source of In-Kind Services N/A

Estimate starting date of project: July 2006

Estimate completion date of project: April 2007

Project will be for: New Airport _____ Existing Airport XX

Is land to be leased or purchased? NO

Description of land and cost per acre:

Provide the Federal AIP Grant Number (AIP Projects Only) _____

State Representatives for your area:

State Senator Sue Madison

State Representative Bill Pritchard Dist 89

State Airport Aid Application
Page Three

The Sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480.1, Notice of Landing Area Proposal, must be approved by FAA before review for grant can be made by the state.

No land purchased with State Grant Funds may be sold or disposed of without State Commission approval. All requests for sale or disposal of property will be considered on an individual case basis.

No airport accepting State Grant funding may issue an Exclusive Rights Lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA application.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc., shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

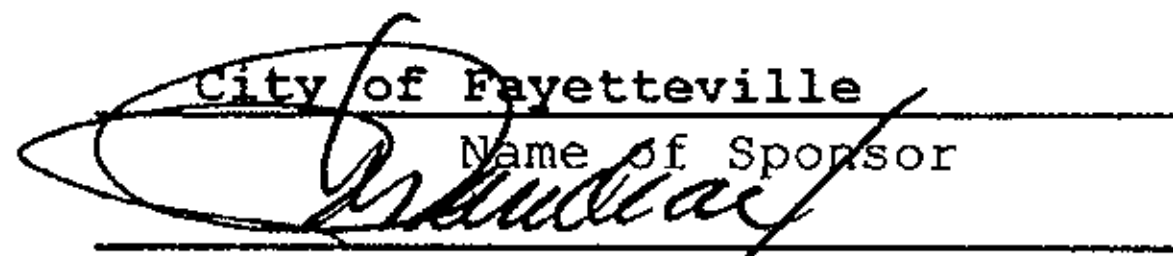
All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County and City Laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued. All grant applicants must submit with their applications a completed Contract and Grant Disclosure and Certification Form. (Form F-1-Pages 1&2).

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void.

It is also agreed that this project, except FAA funded projects, shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project. (See Instruction Page).

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this 19th day of May, 2006.

City of Fayetteville
Name of Sponsor

Authorized Signature
Ray M. Boudreaux, Director
Title

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

The City/County of Fayetteville, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the City of Fayetteville, Arkansas, Washington County.

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Please indicate: x 50-50% Match
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 90-10% Match

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Local Share/In-Kind	<u> </u>	Local Share (5%)	<u>\$</u>
State Share	<u>250,000.00</u>	State Share (5%)	<u>\$</u>

State Airport Aid Application
Page Two

Provide the information listed below as it applies to your project:

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Fayetteville debt financing.

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State Senator Sue Madison

State Representative Bill Pritchard Dist 89

State Airport Aid Application
Page Three

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All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County and City Laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued. All grant applicants must submit with their applications a completed Contract and Grant Disclosure and Certification Form. (Form F-1-Pages 1&2).

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Funds will be disbursed according to Department procedures and final inspection of completed project. (See Instruction Page).

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this 19th day of May, 2006.

City of Fayetteville
Ray M. Boudreaux
Name of Sponsor
Authorized Signature
Ray M. Boudreaux, Director
Title

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

6-Jun-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 06-2045: (Bellafont II, 175): Submitted by H2 Engineering, Inc. for property northwest of Joyce Boulevard and Vantage Drive. The property is zoned C-3, Central Commercial. The request is to vacate a utility easement located within the subject property.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director
5-15-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney
5-16-06
Date

Original Contract Number: n/a

[Signature]
Finance and Internal Service Director
5/19/06
Date

Received in City Clerk's Office
ENTERED
5/16/06
LB

[Signature]
Mayor
5/23/06
Date

Received in Mayor's Office
ENTERED
5/16/06
PK

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning^x

Date: May 9, 2006

Subject: Easement Vacation for Bellafont II (VAC 06-2045)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a 20' general utility easement located within the Bellafont II Large Scale Development.

BACKGROUND

The subject property is located northwest of Joyce Boulevard and Vantage Drive. The Bellafont II Large Scale Development (LSD 06-4939) was approved on this overall approximately 26-acre property on March 27, 2006 by the Fayetteville Planning Commission. The approved LSD is a 26-acre mixed use development with restaurant space, retail space, office space, and condominium towers to hold a maximum of 99 residential units.

The subject 20' utility easement traverses east-west through the approved development bisecting several of the structures as depicted on the drawing attached to the staff report. The overall 20' easement was originally platted on this undeveloped property for general utility use. Utility representatives have no objections to the requested vacation. New utility easements will be provided and dedicated with the development and construction of the Bellafont II project.

The request is to vacate approximately 0.28 acres of the existing utility easement.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City. This item was heard on consent at the regular Planning Commission on May 8, 2006. The Planning Commission voted 9-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE APPROVING VAC 06-2045 SUBMITTED
BY H2 ENGINEERING, INC. FOR PROPERTY LOCATED NORTHWEST OF
JOYCE BOULEVARD AND VANTAGE DRIVE, VACATING A PORTION OF
THE UTILITY EASEMENT LOCATED WITHIN THE SUBJECT PROPERTY.**

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the conditions of approval listed in the staff report and Planning Commission recommendations for the City of Fayetteville, and shall not be in effect until all conditions are met therein.

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

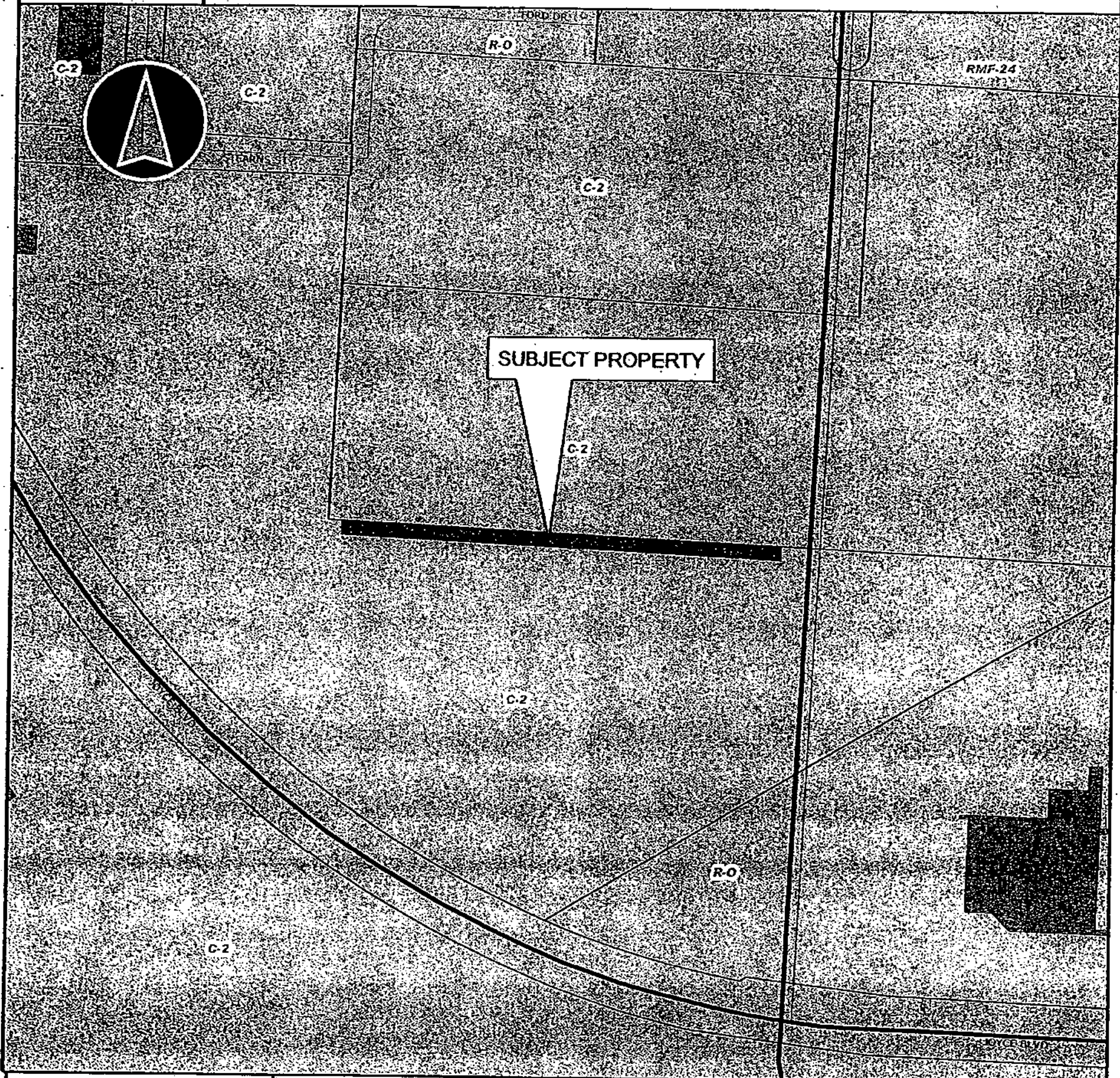
EXHIBIT "A"
VAC 06-2045

LOCATED IN A PART OF THE NW1/4 OF THE NW1/4 AND IN A PART OF THE NE1/4 OF THE NW1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRESCISELY DESCRIBED AS FOLLOWS: STARTING A THE NW CORNER OF THE NW1/4 OF THE NW1/4 OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 20.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 603.85 FEET; THENCE SOUTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 20 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 02 SECONDS WEST, 603.85 FEET; THENCE NORTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 20 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.277 ACRES MORE OF LESS.

VAC06-2045

Close Up View

BELLAFONT II



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- VAC06-2045
- vector.GDB.Footprint_2004





PC Meeting of May 8, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~May 3, 2006~~ May 9, 2006

VAC 06-2045: (BELLAFONT II, 175): Submitted by H2 ENGINEERING, INC. for property located NORTHWEST OF JOYCE BOULEVARD AND VANTAGE DRIVE. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 0.28 acres. The request is to vacate a utility easement located within the subject property.

Property Owner: The Barber Group

Planner: Andrew Garner

Findings: Staff finds that vacating the portions of easement would not adversely affect access to the utilities serving the property or any other adjacent property.

Background/Property: The subject property is located northwest of Joyce Boulevard and Vantage Drive. The Bellafont II Large Scale Development (LSD 06-4939) was approved on this overall approximately 26-acre property on March 27, 2006 by the Fayetteville Planning Commission. The approved LSD is a 26-acre mixed use development with restaurant space, retail space, office space, and condominium towers to hold a maximum of 99 residential units.

The subject 20' utility easement traverses east-west through the approved development bisecting several of the structures as depicted on the drawing attached to this report. The overall 20' easement was originally platted on this undeveloped property for general utility use. Utility representatives have no objections to the requested vacation. New utility easements will be provided and dedicated with the development and construction of the Bellafont II project.

Request: The request is to vacate 0.28 acres of the existing utility easement.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

Ozarks Electric

RESPONSE

No Objections.

Cox Communications
AEP/SWEPCO
SBC Southwestern Bell/AT&T
Arkansas Western Gas

No Objections.
No Objections.
No Objections.
No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer
Transportation
Solid Waste
Engineering

No Objections.
No Objections.
No Objections.
No Objections.

Recommendation: Staff recommends approval of the proposed utility easement vacation 06-2045 with the following condition:

1. Relocation of any existing utilities shall be at the owner/developer's expense.
2. New utility easements shall be dedicated throughout the Bellafont II property as needed to serve the various buildings planned to be constructed.
3. Further development of this property shall not encroach within any existing easement.

PLANNING COMMISSION ACTION: yes Required
 X Approved _____ Denied

Motion: Clark
Second: Anthes
Vote: 9-0-0
Date: May 8, 2006

Comments: Approved on consent agenda.

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____

CITY COUNCIL ACTION: yes Required
 _____ Approved _____ Denied

Date: June 6, 2006



City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Attn: Planning Staff

Re: Bellafort Easement Vacation

Dear Staff,

This correspondence is a written description of the petition to vacate a portion of an existing utility easement lying on Washington County Parcel # 765-15681-004 in Fayetteville, Arkansas. The current owner of the property is The Barber Group. A Large Scale Commercial Development, currently in the city review process, will be placed on this property and the properties adjoining it to the north and east. The presence of the utility easement splits the combined property in half on the west side and creates some design challenges which could be resolved by rededicating utility easement throughout the development as needed to serve the various buildings planned to be constructed. We have provided the utility companies with assurances that new utility easements will be dedicated with the proposed development and the owner will incur the cost of relocating any existing utilities within the easement.

Thank you for your consideration in this matter. If you should have any questions or comments, please call me at 582-4234.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Thompson', is written over a horizontal line.

Jeremy Thompson, P.E.
Project Engineer
H2 Engineering, Inc.

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006

UTILITY COMPANY: Ozarks Electric

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

LOCATED IN A PART OF THE NW ¼ OF THE NW ¼ AND IN A PART OF THE NE ¼ OF THE NW ¼ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 20.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 603.85 FEET; THENCE SOUTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 20 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 02 SECONDS WEST, 603.85 FEET; THENCE NORTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 20 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.277 ACRES MORE OR LESS.

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Mike Phipps
Signature of Utility Company Representative

SYSTEM STAKING TECH
Title

2-6-06
Date



Lynda Palmer
AT&T Arkansas
Mgr.-Eng. (Right-of-Way)
Construction / Engineering

1111 West Capitol, Rm 941
Little Rock, AR 72201
(501) 373.5255 Phone
(501) 373.0229 Fax
lynda.palmer@att.com

February 14, 2006

Jeremy Thompson
H2 Engineering
2758 Millennium Drive, Ste. 1
Fayetteville, AR 72703

Dear Mr. Thompson:

RE: Easement vacation - Vantage Square

Please find enclosed AT&T's concurrence in your request to the above mentioned easement vacation.

This concurrence must be recorded at the Washington County Courthouse in the office of the circuit clerk to be complete and legal. I would appreciate you returning a copy of the document to me at the above address for my files.

If you have any questions or comments, please call me at 501-373-5255.

Sincerely,

A handwritten signature in cursive script that reads "Lynda Palmer".

attachments



CONCURRENCE TO VACATE A DEDICATED UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the vacation of a portion of a dedicated utility easement, to-wit:

LOCATED IN A PART OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND IN A PART OF THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT THE NW CORNER OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 25; THENCE SOUTH 02 DEGREES 36 MINUTES 28 SECONDS WEST, 659.02 FEET; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 20.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 04 MINUTES 02 SECONDS EAST, 603.85 FEET; THENCE SOUTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 20 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 02 SECONDS WEST, 603.85 FEET; THENCE NORTH 02 DEGREES 45 MINUTES 28 SECONDS WEST, 20 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.277 ACRES MORE OR LESS.

Signed and executed this 13th day of February, 2006.

By:

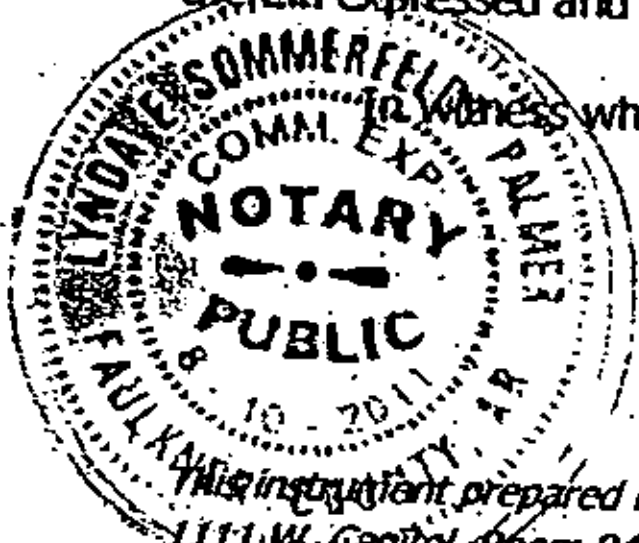
F. Jean Davis
F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF FAULKNER

On this the 13th day of February, 2006, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

In witness whereof I hereunto set my hand and official seal.



This instrument prepared by SBC
1111 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)

Lynda E. Sommerfeldt Palmer
Lynda E. Sommerfeldt Palmer
Notary Public
My commission expires 8/11/2011

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006

UTILITY COMPANY: Arkansas Western Gas

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

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(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

[Signature]
Signature of Utility Company Representative

NW Regional Manager
Title

2-2-06
Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006

UTILITY COMPANY: SWEPCO

REQUESTED VACATION (*applicant must check all that apply*):



Utility Easement



Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.



Alley



Street right-of-way

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(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:



No objections to the vacation(s) described above.



No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Kenny Sullivan

Signature of Utility Company Representative

Right of Way SWEPCO

Title

2-13-06

Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006UTILITY COMPANY: Cox Communications

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

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(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)


Signature of Utility Company RepresentativePLANNER
Title2-7-06
Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006

UTILITY COMPANY: City of Fayetteville - Water and Sewer

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

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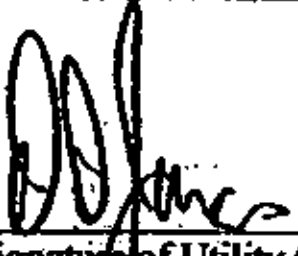
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(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
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(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

Water & Sewer Director

Title

17 March

Date

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006

UTILITY COMPANY: City of Fayetteville - Street Superintendent

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
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- ☐ Street right-of-way

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(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)


Signature of Utility Company Representative

Transportation Supt.
Title

2/14/06
Date

Operations Dept.
Transportation Division

PH 515-8227

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: February 2, 2006

UTILITY COMPANY: City of Fayetteville – Sanitation Superintendent

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
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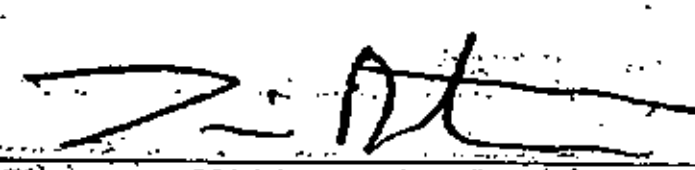
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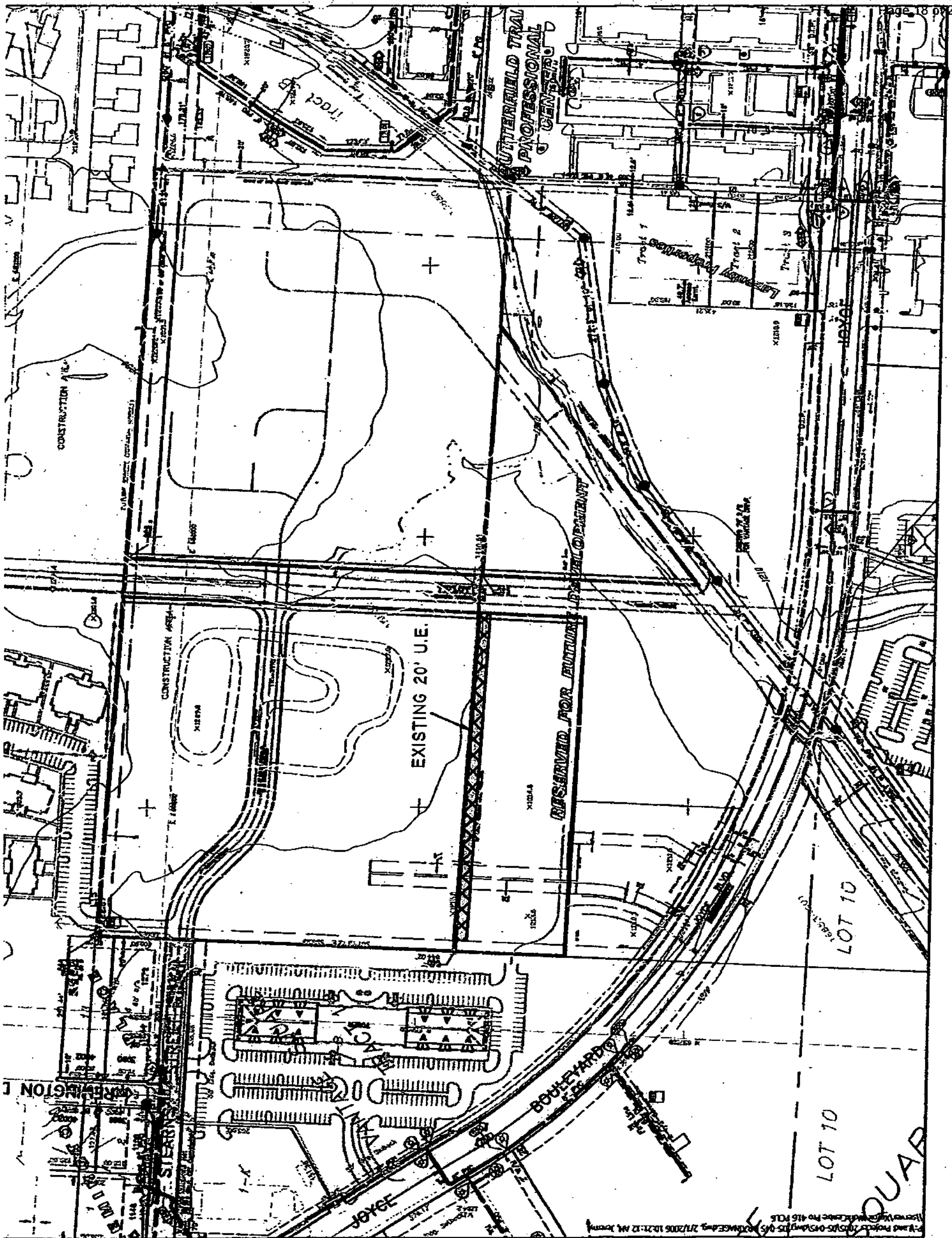

Signature of Utility Company Representative

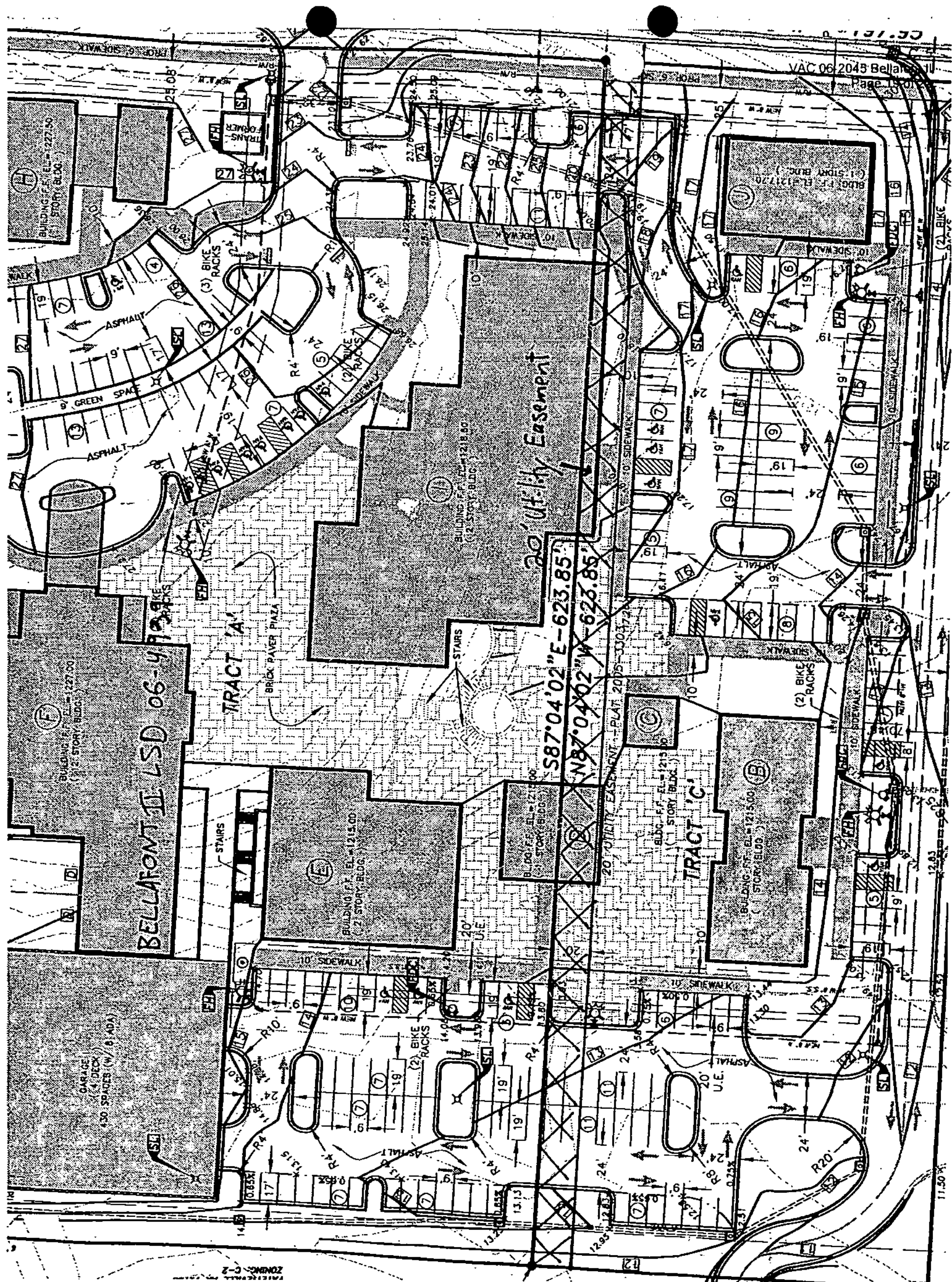
Commercial Solid Waste Rep

Title

02/09/06

Date

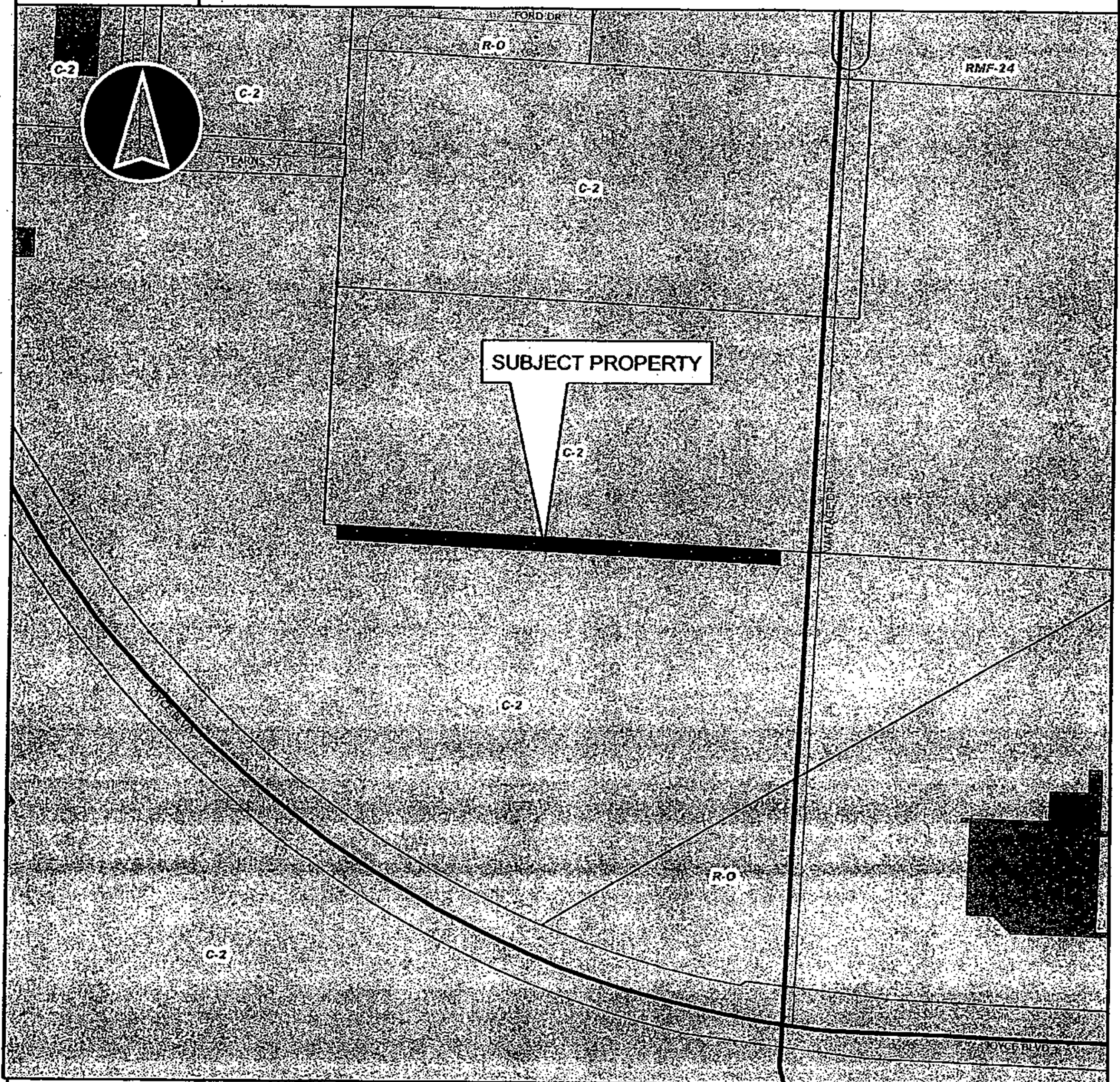




VAC06-2045

BELLAFONT II

Close Up View



Overview

Legend

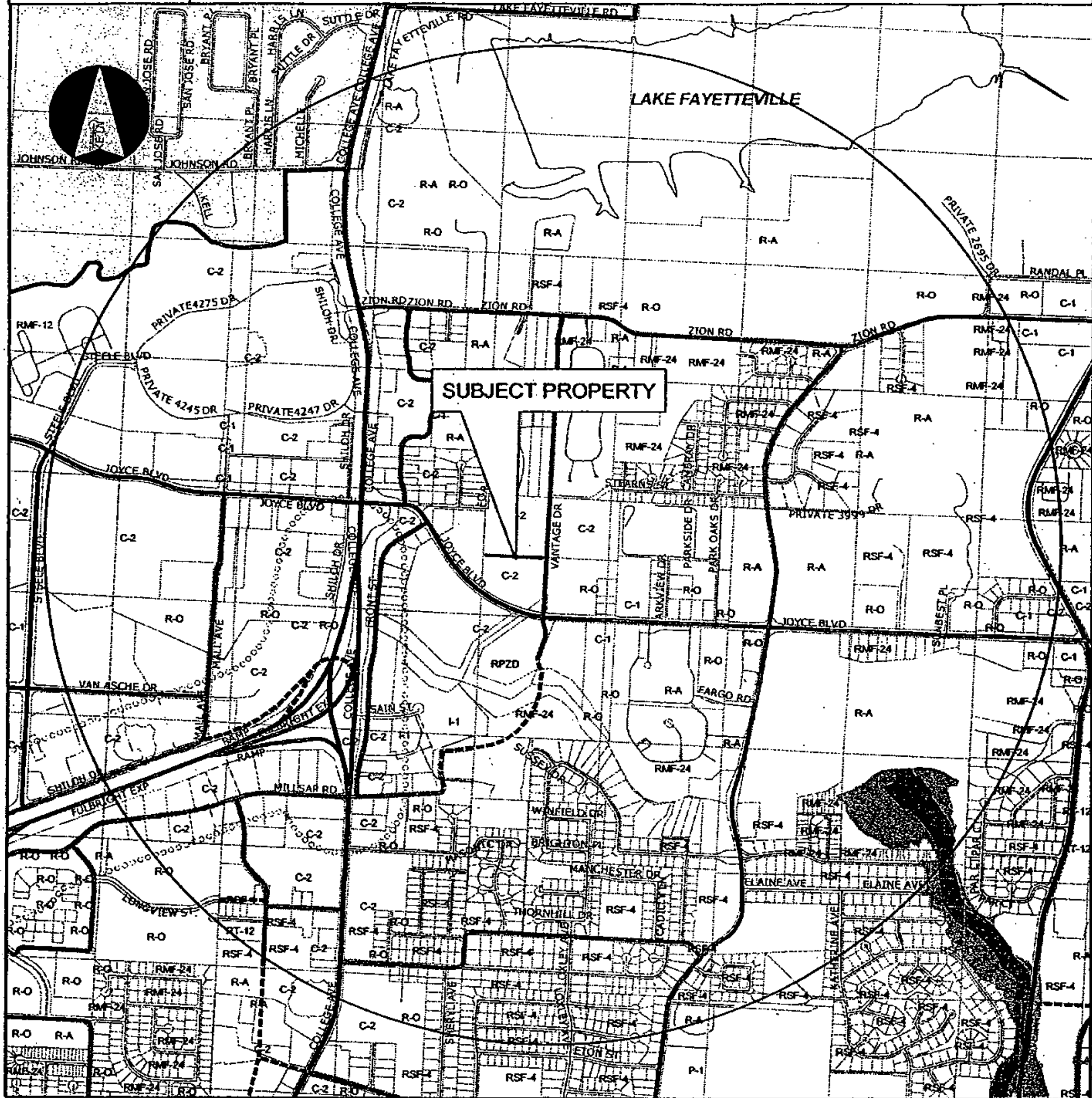
- ooooo Overlay District
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- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- VAC06-2045
- vector.GDB.Footprint_2004



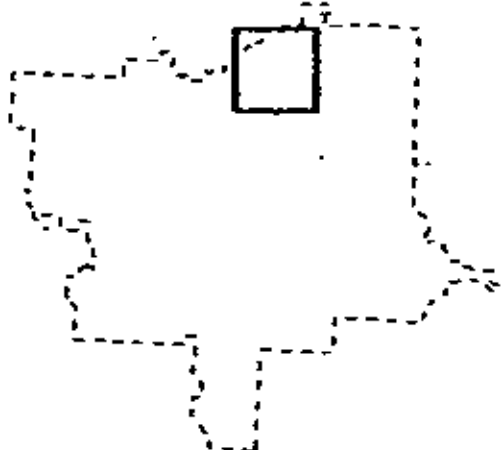
VAC06-2045

BELLAFONT II

One Mile View



Overview



Legend

Subject Property
 VAC06-2045

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

C. 6
RZN 06-2026
Lafayette & Mission
Page 1 of 22

6-Jun-06

City Council Meeting Date

Tim Conklin *[Signature]*
Submitted By

Long Range Planning
Division

Operations
Department

Action Required:

RZN 06-2026 (Lafayette and Mission, 485/486): Submitted by Nancy Williams for property located north of Lafayette Street and east of Mission Boulevard. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre and contains approximately 11 non-contiguous parcels. The request is to rezone the subject parcels to RMF-6, Residential Multi-Family, 6 units per acre.

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

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director

5-18-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney

5-19-06

Original Contract Number: n/a

[Signature]
Finance and Internal Service Director

5/22/06
Date

Received in City Clerk's Office



[Signature]
Mayor

5/23/06
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Leif Olson, Long Range Planner

Date: May 18, 2006

Subject: Rezoning for Lafayette and Mission (RZN 06-2026)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning 11 non-contiguous parcels of land from RMF-24, Residential Multi-family-24 units per acre, to RMF-6, Residential Multi-family-6 units per acre.

BACKGROUND

The subject properties are located north of Lafayette St. and east of Mission Blvd. This neighborhood was platted with small lots and is primarily single family in nature. The rezoning target area is a pocket of Multi-family and Heavy Commercial and Light Industrial zoning surrounded by RSF-4 zoning. The rezoning target area is comprised of 17 parcels zoned RMF-24 and 6 parcels zoned I-1. All of the property owners requesting the rezoning are currently zoned RMF-24. The applicant contacted all property owners north of Lafayette St., east of Mission Blvd., south of Maple St. and along Tanglewood Ave. A total of 11 non-contiguous parcels are requesting the rezoning and have signed the petition. The neighborhood proposes this rezoning in order to ensure that any potential future development will be compatible in land use, scale and mass within the context of the existing neighborhood. Staff is not recommending rezoning any of the parcels that objected to this request.

DISCUSSION

This item was heard at the regular Planning Commission on May 8, 2006. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2026 FOR 11 NON-CONTIGUOUS PARCELS, LOCATED NORTH OF LAFAYETTE STREET AND EAST OF MISSION BOULEVARD, FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE.

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

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

From RMF-24, Residential Multi-Family, 24 units per acre to RMF-6, Residential Multi-Family, 6 units per acre, as shown on Exhibit "A" and Exhibit "B" 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:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2026
page 1 of 2

Parcel No. 765-08031-000

Legal Description Based on Warranty Deed: 2002-106737

A part of Lot Numbered Five in Block Numbered Eleven, Masonic Addition to the City of Fayetteville, Arkansas, and more particularly described as follows: Commencing at the SE corner of said Lot Number Five, and running thence north fifty feet, more or less, to a point due east of the east line of Lafayette Avenue for a point of beginning, running thence north to the north line of said Lot Number Five, thence west seventy five feet, thence south to a point directly east of the north line of Lafayette Avenue; thence east seventy five feet to the point of beginning.

Parcel No. 765-08033-000

Legal Description Based on Warranty Deed: 1294-489

Part of Lot Numbered Five (5) in Block Eleven (11) in Masonic Addition to the City of Fayetteville, Arkansas as the same is known and designated upon the plat of said addition recorded in Deed Record "V" at Page 65 thereof in the office of the recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point sixty feet North of the original SW corner of Lot Number 5 which point is the Northeast corner of the intersection of Lafayette Avenue and Mission Street, said City of Fayetteville, Washington County, Arkansas, and running thence North 50 feet for a beginning corner; thence East 100 feet; thence North 50 feet; thence West 100 feet; thence South 50 feet to the beginning corner.

Parcel No. 765-08034-000

Legal Description Based on Warranty Deed: 99-98244

A part of Lot 5, Block 11, Masonic Addition to the City of Fayetteville, Arkansas as per plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows: Beginning at a point 60 feet North of the original SW corner of said Lot 5 which point is the NE corner of the intersection of Lafayette and Mission Streets; thence East 100 feet to the point of beginning; thence East 50 feet; thence North 150 feet; thence West 50 feet; thence South 150 feet to the point of beginning.

Parcel No. 765-08035-000

Legal Description Based on Warranty Deed: 2001-111898

A part of Lot Five (5) in Block Eleven (11) in the Masonic Addition to the City of Fayetteville, Arkansas, as the same is known and designated upon the plat of said addition recorded in Deed Record "V" at Page 65 thereof in the office of the recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 60 feet North of the original Southwest corner of said Lot 5, which point is the Northeast corner of the intersection of Lafayette Avenue and Mission Street in said City of Fayetteville, Arkansas, thence East 100 feet, thence North 50 feet, thence West 100 feet, thence South 50 feet to the point of beginning.

Parcel No. 765-08037-000

Legal Description Based on Warranty Deed: 1234-613

A part of Lot Numbered Five (5) in Block Numbered Eleven (11) (Old Block 11 being now shown as Block 1) in the Masonic Addition to the City of Fayetteville, Arkansas, as the said is shown and designated upon the plat of said addition recorded in Deed Record "V" at Page 65 thereof in the office of the recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point sixty (60) feet North of the original Southwest corner of said Lot Five (5), which point is the Northeast corner of the intersection of Lafayette Avenue and Mission Street in said City of Fayetteville; and running thence North one hundred (100) feet to the beginning point of the lot to be herein conveyed, thence East one hundred (100) feet; thence North fifty (50) feet; thence West one hundred (100) feet; thence South fifty (50) feet to the point of beginning.

EXHIBIT "A"

RZN 06-2026

page 2 of 2

Parcel No. 765-14381-000

Legal Description Based on Warranty Deed: 1235-311

Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 283 feet South of the Northwest Corner of said 10 acre tract and running thence East 95 feet, thence South 200 feet, thence West 95 feet, thence North 200 feet to the point of beginning, and containing .44 acre, more or less and subject to any portion that may lie in Lafayette Street on the south side.

Parcel No. 765-14380-000

Legal Description Based on Warranty Deed: 98-103301

A part of the NW¼ of the NW¼ of the NE¼ of Section 15, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Beginning at a point which is 283.00 feet South and N89°43'E, 95.00 feet from the NW corner of said 10 acre tract, and running thence N89°43'31"E, 62.00 feet, thence South 200.00 feet, thence S89°43'31"W, 62.00 feet, thence North 200.00 feet to the point of beginning, containing 0.28 acres, more or less.

Parcel No. 765-14380-001

Legal Description Based on Warranty Deed: 2001-81638

A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 283.00 feet South and N89°43'31"E, 157.00 feet from the NW corner of said 10 acre tract, and running thence N89°43'31"E, 62.00 feet, thence South 200.00 feet, thence S89°43'31"W, 62.00 feet, thence North 200.00 feet to the point of beginning.

Parcel No. 765-14377-000

Legal Description Based on Warranty Deed: 2002-56008

A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 283.00 feet South and N89°43'31"E, 219 feet from the NW corner of said 10 acre tract, and running thence N89°43'31"E, 62.00 feet, thence South 200.00 feet, thence S89°43'31"W, 62.00 feet, thence North 200.00 feet to the point of beginning.

Parcel No. 765-14375-000

Legal Description Based on Warranty Deed: 2004-23990

A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Fifteen (15), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 340.00 feet South and 281.00 East of the Northwest corner of said 10 acre tract; running thence North 89°43'31" East 69.00 feet, thence South 143.00 feet, thence South 89°43'31" West 69.00 feet, thence North 143.00 feet to the point of beginning.

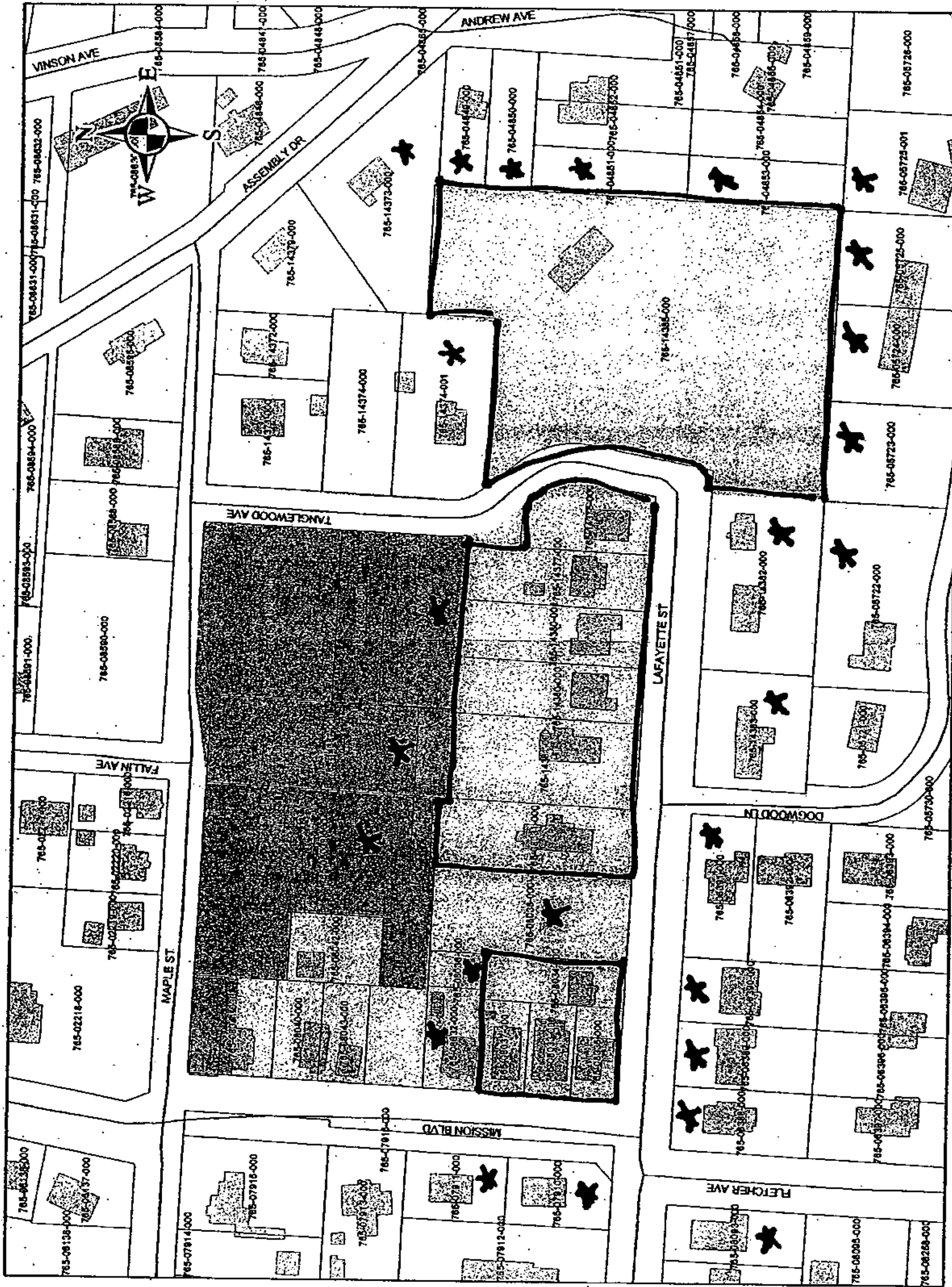
Parcel No. 765-14385-000

Legal Description Based on Warranty Deed: 1151-105

A part of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼), Section Fifteen (15), Township Sixteen (16) North, Range Thirty (30) West, described as beginning at a point North 89 degrees 45 minutes 01 seconds East 350.0 feet and South 00 degrees 09 minutes 51 seconds East 300 feet from the Northwest corner of said 40 acre tract, said point being on the East right of way of Tangle Wood Avenue, thence North 89 degrees 45 minutes 01 seconds East 169.52 feet; thence North 00 degrees 09 minutes 51 seconds West 74.00 feet to a fence, thence North 89 degrees 45 minutes 01 seconds East 139.00 feet; thence South 00 degrees 09 minutes 51 seconds West 437.76 feet; thence South 89 degrees 28 minutes 43 seconds West 308.52 feet; thence North 00 degrees 09 minutes 51 seconds West 365.22 feet to the point of beginning, containing 2.82 acres, more or less, Fayetteville, Arkansas.

EXHIBIT 'B'

- X = NOTIFIED ADJOINER
- PARCELS REQUESTED FOR REZONING FALL WITHIN THE OUTLINE.





PC Meeting of May 8, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Leif Olson, Long Range Planner
THRU: Jeremy Pate, Director of Current Planning
Tim Conklin, Planning and Development Management Director
DATE: May 3, 2006

RZN 06-2026: (LAFAYETTE AND MISSION, 485/486): Submitted by NANCY WILLIAMS for property owners in the designated area located NORTH OF LAFAYETTE ST AND EAST OF MISSION BLVD. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI FAMILY- 6 UNITS / ACRE.

Submitted on behalf of: NANCY WILLIAMS

Planner: LEIF OLSON

RECOMMENDATION:

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

PLANNING COMMISSION ACTION	Required	<u>YES</u>	☒ Approved 9-0-0
		☐ Denied	
Date: <u>May 8, 2006</u>			
CITY COUNCIL ACTION	Required	<u>YES</u>	☒ Approved
		☐ Denied	
Date: <u>June 6, 2006</u>			

Comments: _____

BACKGROUND:

Property description: The subject properties are located north of Lafayette St. and east of Mission Blvd. This neighborhood was platted with small lots and is primarily single family in nature. The rezoning target area is a pocket of Multi-family and Heavy Commercial and Light

K:\Reports\2006\PC Reports\05-08-06\RZN 06-2026 (Lafayette and Mission Downzone RMF-24 to RMF-6).doc

Industrial Zoning surrounded by RSF-4 Zoning. The rezoning target area is comprised of 17 parcels zoned RMF-24 and 6 parcels zoned I-1. All of the property owners requesting the rezoning are currently zoned RMF-24. The applicant contacted all property owners north of Lafayette St., east of Mission Blvd., south of Maple St. and along Tanglewood Ave. A total of 11 non-contiguous parcels are requesting the rezoning and have signed the petition. Staff is not recommending rezoning any of the parcels that objected to this request.

Proposal: The neighborhood proposes this rezoning in order to ensure that any potential future development will be compatible in land use, scale and mass within the context of the existing neighborhood. The applicants request a rezoning of the subject property from RMF-24, Residential Multi Family Residential 24 Units / Acre, to RMF-6, Residential Multi Family – 6 units per acre.

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

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Warehousing and Storage	I-1, Heavy Commercial and Light Industrial
South	Single Family Residential	RSF-4, Res. Single-family, 4 units/ acre
East	Single Family Residential	RSF-4, Res. Single-family, 4 units/ acre
West	Single Family Residential	RSF-4, Res. Single-family, 4 units/ acre

INFRASTRUCTURE:

Streets: Currently the properties are accessed by a number of City Streets including; Lafayette St., Mission Blvd., Maple St., Tanglewood Ave., and Dogwood Ln. No street improvements are required for this rezoning request.

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

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

LAND USE PLAN: The Future Land Use Plan designates this area residential. Rezoning this property to RMF-6 is consistent with the land use plan such that it will allow residential uses compatible with the surrounding properties.

FINDINGS OF THE STAFF

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

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

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

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

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

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

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

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

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

Finding: N/A

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

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

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	4 to 24
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(E) Setback requirements .

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

Cross reference(s)--Variance, Ch. 156.

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

(G) *Building area.* None.

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

161.10 District Rmf-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	4 to 6
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.

One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

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

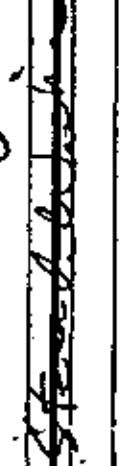
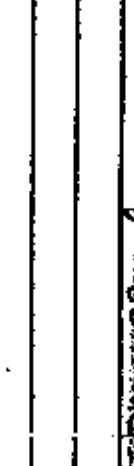
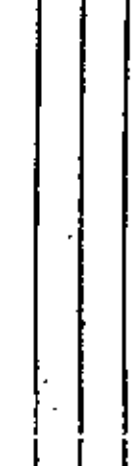
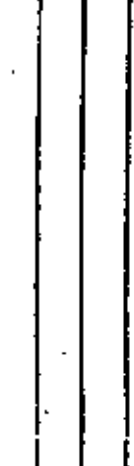
Cross reference(s)--Variances, Ch. 156.

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

(G) *Building area.* None.

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

We, the undersigned, do hereby request the City to rezone the following parcels of land located within the City of Fayetteville from RMF-24, Residential Multi Family 24 units / acre, to RMF-6, Residential Multi Family 6 units / acre

Parcel Number	Location	Owner Name	Signature	Mailing Address
765-08038-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08039-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08040-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08041-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08042-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08043-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08044-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08045-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08046-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08047-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08048-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08049-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08050-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08051-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08052-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08053-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08054-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08055-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08056-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08057-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08058-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE
765-08059-000	654 E LAFAYETTE ST	WINNIE-ET-AL		804 E LAFAYETTE

Parcel No. 765-08031-000**Legal Description Based on Warranty Deed: 2002-106737**

A part of Lot Numbered Five in Block Numbered Eleven, Masonic Addition to the City of Fayetteville, Arkansas, and more particularly described as follows: Commencing at the SE corner of said Lot Number Five, and running thence north fifty feet, more or less, to a point due east of the east line of Lafayette Avenue for a point of beginning, running thence north to the north line of said Lot Number Five, thence west seventy five feet, thence south to a point directly east of the north line of Lafayette Avenue; thence east seventy five feet to the point of beginning.

Parcel No. 765-08033-000**Legal Description Based on Warranty Deed: 1294-489**

Part of Lot Numbered Five (5) in Block Eleven (11) in Masonic Addition to the City of Fayetteville, Arkansas as the same is known and designated upon the plat of said addition recorded in Deed Record "V" at Page 65 thereof in the office of the recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point sixty feet North of the original SW corner of Lot Number 5 which point is the Northeast corner of the intersection of Lafayette Avenue and Mission Street, said City of Fayetteville, Washington County, Arkansas, and running thence North 50 feet for a beginning corner; thence East 100 feet; thence North 50 feet; thence West 100 feet; thence South 50 feet to the beginning corner.

Parcel No. 765-08034-000**Legal Description Based on Warranty Deed: 99-98244**

A part of Lot 5, Block 11, Masonic Addition to the City of Fayetteville, Arkansas as per plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows: Beginning at a point 60 feet North of the original SW corner of said Lot 5 which point is the NE corner of the intersection of Lafayette and Mission Streets; thence East 100 feet to the point of beginning; thence East 50 feet; thence North 150 feet; thence West 50 feet; thence South 150 feet to the point of beginning.

Parcel No. 765-08035-000**Legal Description Based on Warranty Deed: 2001-111898**

A part of Lot Five (5) in Block Eleven (11) in the Masonic Addition to the City of Fayetteville, Arkansas, as the same is known and designated upon the plat of said addition recorded in Deed Record "V" at Page 65 thereof in the office of the recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 60 feet North of the original Southwest corner of said Lot 5, which point is the Northeast corner of the intersection of Lafayette Avenue and Mission Street in said City of Fayetteville, Arkansas, thence East 100 feet, thence North 50 feet, thence West 100 feet, thence South 50 feet to the point of beginning.

Parcel No. 765-08037-000**Legal Description Based on Warranty Deed: 1234-613**

A part of Lot Numbered Five (5) in Block Numbered Eleven (11) (Old Block 11 being now shown as Block 1) in the Masonic Addition to the City of Fayetteville, Arkansas, as the said is shown and designated upon the plat of said addition recorded in Deed Record "V" at Page 65 thereof in the office of the recorder of Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point sixty (60) feet North of the original Southwest corner of said Lot Five (5), which point is the Northeast corner of the intersection of Lafayette Avenue and Mission Street in said City of Fayetteville, and running thence North one hundred (100) feet to the beginning point of the lot to be herein conveyed, thence East one hundred (100) feet; thence North fifty (50) feet; thence West one hundred (100) feet; thence South fifty (50) feet to the point of beginning.

Parcel No. 765-14381-000**Legal Description Based on Warranty Deed: 1235-311**

Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 283 feet South of the Northwest Corner of said 10 acre tract and running thence East 95 feet, thence South 200 feet, thence West 95 feet, thence North 200 feet to the point of beginning, and containing .44 acre, more or less and subject to any portion that may lie in Lafayette Street on the south side.

Parcel No. 765-14380-000**Legal Description Based on Warranty Deed: 98-103301**

A part of the NW¼ of the NW¼ of the NE¼ of Section 15, Township 16 North, Range 30 West, Washington County, Arkansas, more particularly described as follows: Beginning at a point which is 283.00 feet South and N89°43'E, 95.00 feet from the NW corner of said 10 acre tract, and running thence N89°43'31"E, 62.00 feet, thence South 200.00 feet, thence S89°43'31"W, 62.00 feet, thence North 200.00 feet to the point of beginning, containing 0.28 acres, more or less.

Parcel No. 765-14380-001**Legal Description Based on Warranty Deed: 2001-81638**

A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 283.00 feet South and N89°43'31"E, 157.00 feet from the NW corner of said 10 acre tract, and running thence N89°43'31"E, 62.00 feet, thence South 200.00 feet, thence S89°43'31"W, 62.00 feet, thence North 200.00 feet to the point of beginning.

Parcel No. 765-14377-000**Legal Description Based on Warranty Deed: 2002-56008**

A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 283.00 feet South and N89°43'31"E, 219 feet from the NW corner of said 10 acre tract, and running thence N89°43'31"E, 62.00 feet, thence South 200.00 feet, thence S89°43'31"W, 62.00 feet, thence North 200.00 feet to the point of beginning.

First submitted as RZAO6-2026
Okay
4/19/2006

Parcel No. 765-14375-000

Legal Description Based on Warranty Deed: 2004-23990

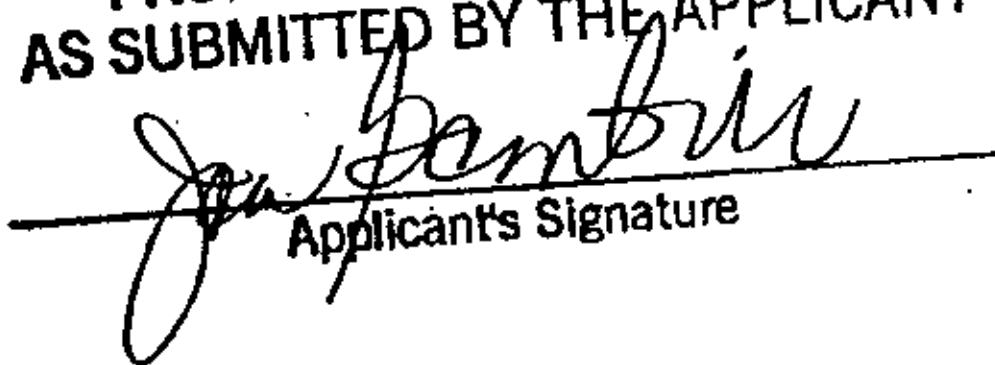
A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Fifteen (15), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point 340.00 feet South and 281.00 East of the Northwest corner of said 10 acre tract; running thence North 89°43'31" East 69.00 feet, thence South 143.00 feet, thence South 89°43'31" West 69.00 feet, thence North 143.00 feet to the point of beginning.

Parcel No. 765-14385-000

Legal Description Based on Warranty Deed: 1151-105

A part of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼), Section Fifteen (15), Township Sixteen (16) North, Range Thirty (30) West, described as beginning at a point North 89 degrees 45 minutes 01 seconds East 350.0 feet and South 00 degrees 09 minutes 51 seconds East 300 feet from the Northwest corner of said 40 acre tract, said point being on the East right of way of Tangle Wood Avenue, thence North 89 degrees 45 minutes 01 seconds East 169.52 feet; thence North 00 degrees 09 minutes 51 seconds West 74.00 feet to a fence, thence North 89 degrees 45 minutes 01 seconds East 139.00 feet; thence South 00 degrees 09 minutes 51 seconds West 437.76 feet; thence South 89 degrees 28 minutes 43 seconds West 308.52 feet; thence North 00 degrees 09 minutes 51 seconds West 365.22 feet to the point of beginning, containing 2.82 acres, more or less, Fayetteville, Arkansas.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

First submittal as
RZN06-2026

Okay

4/19/2006

TJ

JOHN J. WATKINS
916 E. DOGWOOD LANE
FAYETTEVILLE, AR 72701
(479) 443-6632

TO: Fayetteville Planning Commission & Staff
Attn: Leif Olson

RE: RZN 06-2026 – Lafayette Downzoning

DATE: May 5, 2006

Please consider these comments in connection with RZN 06-2026, which is on the Planning Commission agenda for Monday, May 8. Regrettably, I will be out of town and thus unable to attend.

As an adjacent property owner, I am pleased that the staff is recommending a down-zoning for this area. However, I urge the Commission to rezone the subject property as RSF-4, the designation for all of the surrounding property in the neighborhood.

I can think of only one multi-family dwelling in the area covered by the rezoning proposal, a small unit on the north side of Lafayette Street east of Mission. Redesignating the property as RMF-6 would be inconsistent with the surrounding area and would have an adverse effect on the value of single-family homes in the neighborhood.

To be sure, any change would be an improvement with respect to the property north of Lafayette Street along Maple Street and Tanglewood Ave. This area, now zoned heavy commercial and light industrial, is an eyesore of the worst sort. One could argue that the RMF-6 designation might be reasonable for this section, but it is surely inappropriate for the remainder of the property covered by the rezoning proposal.

That is particularly so as to the property east of the point at which Lafayette dead-ends at Tanglewood. This area, which lies southwest of Assembly Drive and north of Dogwood Lane, is surrounded on three sides by single-family homes. The fourth side, which touches on a short stretch of Tanglewood, is now occupied by one house.

Apart from consistency problems, the proposed rezoning – while better than the present zoning – would likely lead to construction of multi-family units. The result would substantially increased traffic at one of the worst and most dangerous intersections in town, i.e., the awkward two-stop, one-yield intersection of Lafayette, Mission, and Fletcher.

Thank you for your consideration.

John J. Watkins

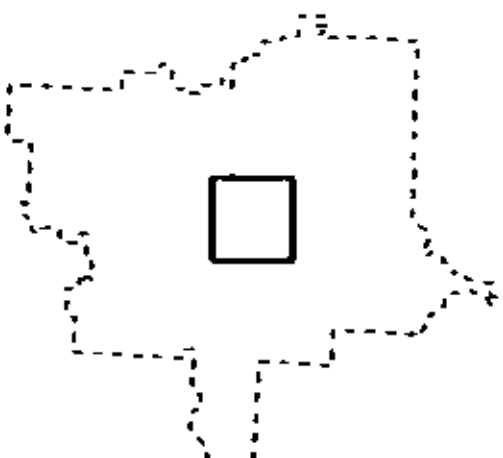
RZN06-2026

One Mile View

LAFAYETTE REZONING



Overview



Legend

Subject Property

RZN06-2026

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

1

Miles

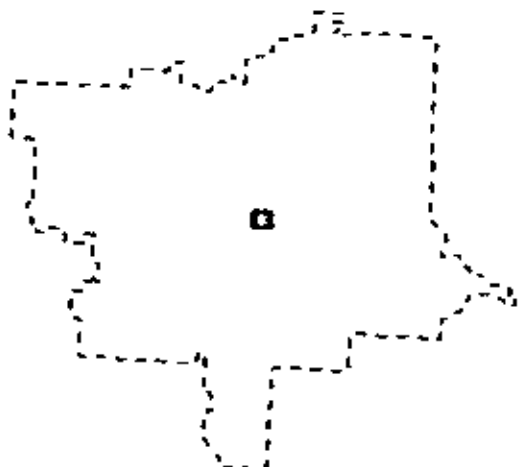
RZN06-2026

Future Land Use

LAFAYETTE REZONING



Overview



Legend

Subject Property

RZN06-2026

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 125 250 500 750 1,000 Feet

Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)
- Hillside/Hilltop Overlay District

RZN06-2026

Close Up View

LAFAYETTE REZONING



Overview

Legend

- vector.GDB.Footprint_2004
- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RZN06-2026
- Hillside-Hilltop Overlay District

0 125 250 500 750 1,000 Feet

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

6-Jun-06

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a cost-share and bid waiver in the amount of \$14,500 with a contingency in the amount of \$1,450 with BMW Investments, LLC for the upsizing of approximately 860 feet of 8" water main to 12".

\$15,950.00

Cost of this request

5400.5600.5808.00

Account Number

02067

Project Number

\$424,740.00

Category/Project Budget

\$19,202.00

Funds Used to Date

\$405,538.00

Remaining Balance

Water and Sewer

Cost Sharing

Program Category / Project Name

Water & Sewe

Program / Project Category Name

Sales Tax

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

City Attorney

Finance and Internal Service Director

Mayor

5.19.06

5/23/06

5/24/06

5/23/06

Received in City Clerk's Office

ENTERED

5/19/06

Received in Mayor's Office

ENTERED

5/23/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Date: May 12, 2006

Subject: Proposed cost-share and bid waiver in the amount of \$14,500.00 with a contingency of \$1,450.00 with BMW Investments, LLC for the upsizing of approximately 860' of 8" water main to 12".

RECOMMENDATION

Staff recommends that the City cost-share with BMW Investments, LLC the developer, to upsize approximately 860 feet of 8" water main to a 12" main. By participating in the construction of these improvements, the City will be continuing a 12" grid in the water line distribution system in this area as recommended by the Water Master Plan Study.

BACKGROUND

BMW Investments, LLC is constructing a 256 lot residential subdivision in the vicinity of where Clabber Creek crosses Ruppel Road north of Mount Comfort Road. As a part of this development, the developer is required to construct a water main extension to provide water service and fire protection to the site.

DISCUSSION

There is existing 12" water main along Mount Comfort Road that extends to the east side of Ruppel Road. An 8" main extends to the north along Ruppel Road to the south side of Clabber Creek. The proposed development is required to connect to this main and extend it further north along Ruppel Road across Clabber Creek. It would benefit the City to cost-share with the developer for the construction of this portion of the water line to install a 12" main across Clabber Creek, thus reducing the impact of construction within the creek in the future. The City's cost is approximately 31% of the total cost before contingencies. Should the City wait to upgrade the water main, future costs will be significantly higher.

Construction estimates have been provided to the City for these improvements by the H2 Engineering as follows:

Developer's Share	\$ 32,240.00
City's Share	\$ 14,500.00
10% Contingency(City's Share)	<u>\$ 1,450.00</u>
Total	\$ 48,190.00

BUDGET IMPACT

Based upon the information provided by the Budget & Research Division, there is a remaining balance of \$405,538.00 in the Water and Sewer Cost Sharing Account.

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

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH BMW INVESTMENTS, LLC IN THE AMOUNT OF \$14,500.00 FOR THE UPSIZING OF APPROXIMATELY 860 FEET OF 8" WATER MAIN TO 12" WATER MAIN; AND APPROVING A CONTINGENCY IN THE AMOUNT OF \$1,450.00.

WHEREAS, the Water Master Plan calls for a 12" water main along Ruppel Road, where BMW Investments, LLC is developing a residential subdivision; and,

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

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical and waives the requirements of formal competitive bidding to approve a cost-share agreement with BMW Investments, LLC in the amount of \$14,500.00 for the upsizing of approximately 860 feet of 8" water main to 12" water main.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a contingency in the amount of \$1,450.00.

PASSED AND APPROVED this 6th day of June, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and BMW Investments, LLC, Witnesseth:

WHEREAS, BMW Investments, LLC is constructing a 256 lot residential subdivision on the west side of Ruppel Road north of Clabber Creek.; and

WHEREAS, BMW Investments, LLC will be extending an 8" main through the project site to provide water service and fire protection to the development; and

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

NOW, THEREFORE, the City of Fayetteville and BMW Investments, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the upsizing to a 12" water main along Ruppel Road.
 - B. Pay a maximum-not-to-exceed cost of \$15,950.00 for the afore mentioned water main construction as was provided by H2 Engineering and made a part of this agreement.
 - C. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by H2 Engineering. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - D. Make all efforts to provide payment to BMW Investments, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. BMW Investments, LLC agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the water main installation.

- C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between BMW Investments, LLC and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$15,950.00 for the water main upgrade.

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

CITY OF FAYETTEVILLE

BMW Investments, LLC

By: _____
DAN COODY, Mayor

By: _____

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

C. 8
RZN 06-2028
Mountain Ranch C-2
Page 1 of 72

6-Jun-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2028 (Mountain Ranch, 440): Submitted by Tom Terminella for property located west of I-540 and South of Betty Jo Drive. The property is zoned C-1, Neighborhood Commercial, R-A, Residential-Agricultural, and RMF-24, Residential Multi-Family, 24 units per acre and contains approximately 22.68 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

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

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office

ENTERED
5/16/06

Received in Mayor's Office

ENTERED
5/16/06

Department Director

5-15-06
Date

City Attorney

5-16-06
Date

Finance and Internal Service Director

5/19/06
Date

Mayor

5/23/06
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: May 11, 2006

Subject: Rezoning for Mountain Ranch (RZN 06-2028)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 22.68 acres of property from C-1, Neighborhood Commercial, RMF-24, Residential Multi-family 24 units per acre and R-A, Residential Agricultural, to C-2, Thoroughfare Commercial, subject to a Bill of Assurance offered by the applicant on the subject property.

BACKGROUND

The subject property contains three separate areas that total approximately 22.68 acres, located at the southwest intersection of Shiloh Drive and Persimmon Street, west of I-540 and south of Betty Jo Drive. Each of the three areas (**Parcel Nos. 1, 2 and 8** as indicated in the attached maps) are adjacent to improved Collector streets at this time. Parcel Nos. 1 and 8 are furthermore located primarily within the Design Overlay District and are subject to the restrictions as established therein.

The Future Land Use Plan designates this entire site for Residential use, though recent zoning actions by the City Council recognizes the need for both residential uses and services to support those uses in close proximity, while limiting the chance for adjacency of incompatible land use. The majority of rezoning requests for the Mountain Ranch project is consistent with the land use plan for future residential uses and is compatible with surrounding properties that are developed residentially or commercially. While the commercial zoning requests near Persimmon and Shiloh are not perfectly consistent with the Future Land Use Plan, staff finds that the significant changes in character of this area of the city in the past 3-5 years warrants a commercial node to allow for commercial services within close walking or driving distance of rapidly developing residential areas.

The applicant proposed a rezoning of the subject property to facilitate the future development of a supporting commercial area for planned residential growth. The request is to rezone the subject property to C-2, Thoroughfare Commercial. Staff originally had reservations about the request, and met with the applicant to address these concerns. Following, a Bill of Assurance was offered by the applicant to restrict some of the more potentially objectionable uses found in a C-2 zoning district. This detailed Bill of Assurance that has been offered is identical to the one offered with other rezoning requests in this area in past approvals by the City Council.

DISCUSSION

This item was heard at the regular Planning Commission on May ⁸~~22~~, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning, subject to the offered Bill of Assurance.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2028 FOR
APPROXIMATELY 22.68 ACRES, LOCATED
WEST OF I-540 AND SOUTH OF BETTY JO
DRIVE, FROM R-A, RESIDENTIAL-
AGRICULTURAL, C-1, NEIGHBORHOOD
COMMERCIAL, AND RMF-24, RESIDENTIAL
MULTI-FAMILY, 24 UNITS PER ACRE 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 R-A, Residential-Agricultural, C-1,
Neighborhood Commercial, and RMF-24,
Residential Multi-Family, 24 units per acre to C-2
Thoroughfare Commercial, as shown on Exhibit
"A" attached hereto and made a part hereof.

Section 2: That the rezoning is subject to the Bill of Assurance offered by the applicant
and shown as Exhibit "B" attached hereto and made a part hereof.

Section 3: 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:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2028 PARCEL 1, 2, AND 8

LEGAL DESCRIPTION: (PARCEL "1" C-1 TO C-2)

PART OF THE NE1/4, NW1/4 AND PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE SOUTH 584.44 FEET, THENCE WEST 453.75 FEET TO THE P.O.B., THENCE S84°09'20"W 2.11 FEET, THENCE ALONG A CURVE TO THE LEFT 1347.16 FEET, SAID CURVE HAVING A RADIUS OF 1275.00 FEET AND A CHORD BEARING OF N36°06'50"W 1285.36 FEET, THENCE N66°22'59"W 92.26 FEET, THENCE N03°03'43"E 204.01 FEET, THENCE S86°55'01"E 1069.13 FEET, THENCE S10°32'43"E 3.06 FEET, THENCE S17°49'52"E 210.49 FEET, THENCE S21°40'11"E 323.12 FEET, THENCE S56°05'41"W 145.17 FEET, THENCE S25°05'22"W 703.02 FEET TO THE P.O.B.; CONTAINING 16.38 ACRES MORE OR LESS.

LEGAL DESCRIPTION: (PARCEL "2" RMF - 24 TO C-2)

PART OF THE NW1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID NW1/4, NW1/4 THENCE SOUTH 59.76 FEET, THENCE WEST 3.16 FEET TO THE P.O.B., THENCE S03°03'43"W 840.94 FEET, THENCE N66°22'59"W 58.23 FEET, THENCE ALONG A CURVE TO THE LEFT 101.80 FEET, SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CHORD BEARING OF S32°54'04"W 101.62 FEET, THENCE N02°26'00"E 907.38 FEET, THENCE S87°35'25"E 115.05 FEET TO THE P.O.B.; CONTAINING 2.14 ACRES MORE OR LESS.

LEGAL DESCRIPTION: (PARCEL "8" R-A TO C-2)

PART OF THE NE1/4, NW1/4 AND PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE S02°57'58"W 541.99 FEET, THENCE S84°09'20"W 427.95 FEET, THENCE N25°05'22"E 703.02 FEET, THENCE N56°05'41"E 145.17 FEET, THENCE S14°47'03"E 137.78 FEET TO THE P.O.B., CONTAINING 4.16 ACRES MORE OR LESS.

EXHIBIT "B"

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner(s), developer, or buyer of this property, (hereinafter "Petitioners") *Reserve, LLC.*, hereby voluntarily offer this Bill of Assurance and enter into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioners expressly grant to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioners or Petitioners' heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioners acknowledge that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' rezoning request.

Petitioners hereby voluntarily offer assurances that Petitioners and Petitioners' property shall be restricted as follows IF Petitioners' rezoning is approved by the Fayetteville City Council.

1. The use of Petitioners' property described in Exhibit "A" attached hereto shall be limited to those uses permitted by right and by conditional use in the C-2 zoning district, with the exception of the following:

Permitted Uses to be excluded:

- a. Unit 20: Commercial recreation, large sites
- b. Unit 33: Adult live entertainment club or bar

Conditional Uses to be excluded:

- a. Unit 21: Warehousing and wholesale
- b. Unit 28: Center for collecting recyclable materials
- c. Unit 32: Sexually oriented business
- d. Unit 36: Wireless communications facilities

2. Further, the use of the petitioner's property described in Exhibit "A" attached hereto shall exclude the following uses in the Use Unit 17 designation:

Buses, Manufactured home sales, used car lots, farm supplies and equipment and repair, auctioneer, cabinetmaker, tattoo services, taxidermist, tool sharpening service and motor repair.

3. The use of the Petitioner's property described in Exhibit "A" attached hereto shall exclude the following specific uses in the Use Unit 19 designation:

Bowling alley, slot car track, skating rink.

4. Petitioners specifically agree that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners' rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, *Reserve, LLC.*, as the owners, developers or buyers (Petitioners) voluntarily offer all such assurances and sign our names below.

5-3-06
Date

123 College
Address
Ray Ave 72107

Tom Terrence
Printed Name

[Signature]
Signature

Date

Address

Printed Name

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 3 day of May, 2006, appeared before
me, Tom Terminella and after
being placed upon his/her oath swore or affirmed that he agreed with the terms
of the above Bill of Assurance and signed his name above.

Jamie R. Terminella
NOTARY PUBLIC

My Commission Expires:

4/13/2015

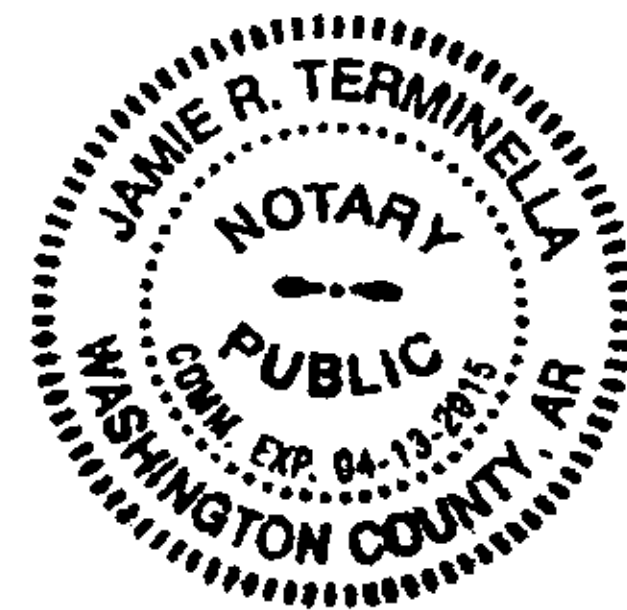


EXHIBIT "A"
RZN 04-

LEGAL DESCRIPTION: (Parcel "1" C-1 to C-2)

Part of the NE1/4, NW1/4 and part of the SE1/4, NW1/4 of Section 18, T16N, R30W in Washington County, Arkansas and being described as follows:
Commencing at the NE Corner of said SE1/4, NW1/4 thence South 584.44 feet, thence West 453.75 feet to the P.O.B., Thence S84°09'20"W 2.11 feet, Thence along a curve to the left 1347.16 feet, Said curve having a radius of 1275.00 feet and a chord bearing of N36°06'50"W 1285.36 feet, Thence N66°22'59"W 92.26 feet, Thence N03°03'43"E 204.01 feet, Thence S86°55'01"E 1069.13 feet, Thence S10°32'43"E 3.06 feet, Thence S17°49'52"E 210.49 feet, Thence S21°40'11"E 323.12 feet, Thence S56°05'41"W 145.17 feet, Thence S25°05'22"W 703.02 feet to the P.O.B.; Containing 16.38 Acres more or less.

LEGAL DESCRIPTION: (Parcel "2" RMF - 24 to C-2)

Part of the NW1/4, NW1/4 of Section 18, T16N, R30W in Washington County, Arkansas and being described as follows: Commencing at the NE Corner of said NW1/4, NW1/4 thence South 59.76 feet, thence West 3.16 feet to the P.O.B., Thence S03°03'43"W 840.94 feet, Thence N66°22'59"W 58.23 feet, Thence along a curve to the left 101.80 feet, said curve having a radius of 500.00 feet and a chord bearing of S32°54'04"W 101.62 feet, Thence N02°26'00"E 907.38 feet, Thence S87°35'25"E 115.05 feet to the P.O.B.; Containing 2.14 acres more or less.

LEGAL DESCRIPTION: (Parcel "8" R-A to C-2)

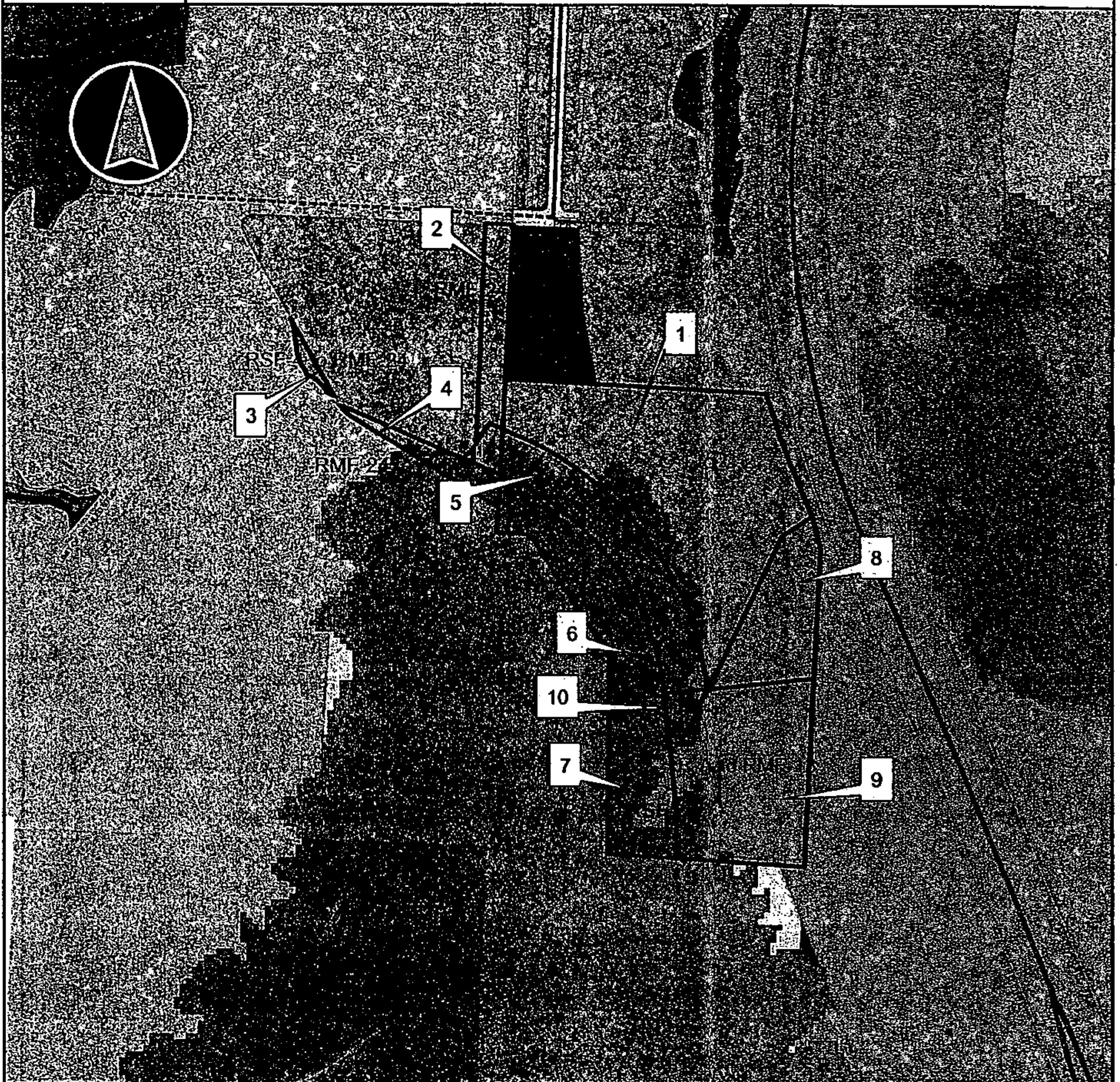
Part of the NE1/4, NW1/4 and part of the SE1/4, NW1/4 of Section 18, T16N, R30W in Washington County, Arkansas and being described as follows:
Commencing at the NE Corner of said SE1/4, NW1/4 thence S02°57'58"W 541.99 feet, thence S84°09'20"W 427.95 feet, thence N25°05'22"E 703.02 feet, thence N56°05'41"E 145.17 feet, thence S14°47'03"E 137.78 feet to the P.O.B., Containing 4.16 acres more or less.

2006

RZN06-2028

Close Up View

MOUNTAIN RANCH



Overview

0 200 400 800 1,200 1,600 Feet



PC Meeting of May 08, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: May 01, 2006 May 09, 2006

RZN 06-2028: (MOUNTAIN RANCH, 479): Submitted by TOM TERMINELLA for property located at WEST OF I-540 AND SOUTH OF BETTY JO DRIVE. The property is zoned C-1, RMF-24, RSF-4, and R-A, containing approximately 47.48 acres. The request is to adjust existing zoning lines and to rezone certain parcels of the property in the manner indicated with the attached maps and descriptions. Planner: Jeremy Pate

PROPOSED REZONINGS

Parcel	Existing Zoning	Proposed Zoning	Acres	Percentage of Land
1	C-1	C-2*	16.38	34.5%
2	RMF-24	C-2*	2.14	4.5%
3	RSF-4	RMF-24	0.28	0.5%
4	RMF-24	RSF-4	1.17	2.4%
5	C-1	RMF-12	5.28	11.1%
6	C-1	RSF-2	4.92	10.4%
7	R-A	RSF-2	3.99	8.4%
8	R-A	C-2*	4.16	8.8%
9	R-A	RMF-18	8.73	18.4%
10	C-1	RMF-18	0.43	0.9%
TOTAL			~ 47.48	100%

* With Bill of Assurance offered by the applicant

RECOMMENDATION:

Staff recommends approval of the requested rezoning for Parcel Nos. 3, 4, 5, 6, and 7 based on the findings included as part of this report (see chart above to reference requested zoning districts).

Staff recommends approval of the requested rezoning for Parcel Nos. 1, 2 and 8 subject to the offered Bill of Assurance limiting the potentially incompatible uses located within the C-2 zoning district, but allowing uses that are located for convenience and accessibility along major thoroughfares and do not present a threat to the integrity or compatibility of adjoining neighborhoods. The same Bill of Assurance was offered and accepted by the Planning Commission and City Council with the previous rezoning requests to C-2 in this area.

Staff recommends approval of the requested rezoning for Parcel Nos. 9 and 10 to RMF-18 based on the findings included as part of this report (see chart above to reference requested zoning districts), finding also that with the adoption of the Hillside/Hilltop Overlay District by the City Council, the applicant and staff have the ability to work together to both preserve and protect sensitive hillside while allowing for development at appropriate densities by clustering and encouraging reduced setbacks and land disturbance.

PLANNING COMMISSION ACTION:		
Required	☒ YES	
Date: <u>May 08, 2006</u>	☒ Approved	☐ Denied
Vote: 9-0-0		
CITY COUNCIL ACTION:		
Required	☒ YES	
Date: <u>June 06, 2006 (1st reading if recommended)</u>	☐ Approved	☐ Denied

BACKGROUND:

Property description: The subject property contains approximately 48 acres in total, located west of Shiloh/I-540 and south of the future Persimmon Street. The site consists of flat areas along the frontage of Shiloh Drive and the future Persimmon Street and hillside that rises up a portion of the mountain to the west. In 2005, the Planning Commission recommended and the City Council approved an overall rezoning of this area for 350 acres, with a range of zoning districts from RSF-2 to C-2. The majority of the property was originally requested to be rezoned RSF-2, constituting much of the hillside area. The zoning district boundaries followed closely with the topography of the site, delegating less intense, least dense development in those areas that are the steepest and most appropriate for low density; higher intensity multi-family and commercial development along the arterial/collector street systems that allow for ease of vehicular traffic in and out, as well as close pedestrian/vehicular access from the surrounding residential uses; low to medium density residential uses in those areas that have the least amount of significant slope and where there is the ability to develop at a higher density; and commercial areas that are located near major collector street intersections, creating a small neighborhood commercial node to support surrounding residential uses.

The applicant has also previously submitted a concept masterplan prepared for the property in question, stating his intentions to develop this mountain and surrounding land with a mixture of densities and uses, which was received favorably by the Planning Commission and City Council.

At this time, more detailed analysis of the location of the primary streets that will traverse the

mountain, connecting to Persimmon, Shiloh and Old Farmington in the future has been completed, and it has been determined that moving the north/south street further east, down the hill, is more appropriate than originally anticipated for the terrain and future development. Subsequently, placing the future street in this location would split existing zoning districts, placing some commercial districts and multi-family districts farther up the mountain than desirable, and causing incompatible adjacent land uses. For these areas, the applicant has requested a zoning to match those adjacent and uphill (parcels # 4, 6, 7), essentially downzoning or rezoning to residential single family districts. In other areas, the potential for development is beginning to be realized; some multi-family areas are not desired to be so large and are subsequently requested to be decreased, while frontages along Shiloh Drive and I-540 are more desirable for commercial applications, rather than residential. These requests are reflected in the remaining zoning parcels. Parcel No. 5, currently zoned C-1, is proposed to be downzoned to RMF-12 as a transition between the residential single family uses to the west and the commercial zoning to the east. The submitted rezoning requests continue to support the originally presented masterplan, containing a mixture of uses and density based on access availability and existing topography, among other factors.

Proposal: The applicant proposes rezoning the 48 acres in 10 separate and distinct parcels, as outlined in the table above. Some requests simply constitute a zoning boundary adjustment (2, 3, 4, 6), while others introduce a zoning district for consideration (1, 5, 7, 8, 9, 10).

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Multi-family development, Persimmon Street	RMF-24
South	Single family, commercial, mixed two-family and multi-family development, agricultural	RSF-4, RMF-24, C-2, R-A
East	Commercial, I-540, Undeveloped	C-2, R-A
West	Single family, Undeveloped	RSF-2, RSF-4

PUBLIC SERVICES:

Streets: Currently the site has access to Shiloh Drive, a collector, and Persimmon Street, also a collector. Road improvements required for both Shiloh Drive and Persimmon Street may include: right-of-way dedication and sidewalks per the Master Street Plan, pavement width as determined, curb and gutter, and storm drainage. These will all be evaluated by staff as development occurs.

Water: Public water is adjacent to or near several of the areas in question, but not readily available without additional extensions. Some of the developments currently under construction or approved will extend water even closer to these properties. A 36" main supply pipeline runs along Shiloh Drive. There is also an 8"

waterline that runs along Betty Jo Drive to the north. Water service would need to be extended to the property at the time of development. Approval of the Mountain Ranch Phase I development will supply an additional connection point for water. Minimum size of new water mains is 8". Additional connections are required to complete a looped system. There are some long range water distribution system improvements planned in the area along Ruppel Road and Persimmon Road, some of which are cost shares with developers in the area.

Sewer: Sanitary sewer is available on the site. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended within the property at the time of development. There is an 18" sewer force main along Shiloh Drive. New sewer lines will be located near the site with the completion of Mountain Ranch Phase I. Sewer will need to be extended to and within the property to serve the development. A study of the downstream system shall be completed prior to the submittal of construction drawings.

Fire: The Fayetteville Fire Department has reviewed the request and has estimated that the response time from Fire Station #7 (Ruppel Road) to the site would be approximately 4 minutes for a distance of 1.6 miles. It is anticipated that when Persimmon is extended west from Betty Jo Drive, the response time will be decreased to 3.25 minutes. These times do not include any of the planned extensions or access points from Ruppel and Persimmon, which should greatly enhance response time and level of service for this area once constructed.

Police: The following information was submitted with the original rezoning request. No further information has been provided regarding the present request, though it should be noted that it is much smaller in area than the original. *The Fayetteville Police Department responds that a substantial increase in population from that which is currently present is anticipated, due to the nature of the current zoning of Residential Agricultural changing with any type of development on this property. Subsequently, street improvements in the area will need to occur with future development, in order to maintain safe and adequate levels of traffic movement and safety, as well as allow for an efficient response to calls for service, including preventative patrol, criminal investigations, traffic enforcement and other police services. Currently it is not possible to accurately predict how much these rezonings will increase the calls for service. However, in comparisons to historical data, an estimate can be derived. In comparing the requested RSF-4, RSF-2 and RMF-24 zoning districts to similarly developed areas in the city, an anticipated 0.7% increase, 1.4% increase and 1.5% increase in calls for service, respectively, is anticipated with maximum build-out of the property in question. This does not take into account, however, the time it takes to build out a development or the improved infrastructure required as part of the development. As more information is gathered and a more comprehensive methodology established for evaluating both impact to the Police Department and what that*

ultimately means in personnel, etc., this information will be updated for the Planning Commission and City Council. Based on information of the future street plans for this area, the completion of Ruppel Road, Persimmon Street and potential connection with Old Farmington Road from the I and J sections should aid with traffic congestion in the area.

It is the opinion of the Fayetteville Police Department that the commercial rezoning and subsequent development will not cause any major issues in regard to call volume of traffic congestion, especially with street improvements in this area allowing for alternate means of ingress/egress.

LAND USE PLAN: The Future Land Use Plan designates this site, along with all other property west of I-540 between Hwy 62 and 16, with the exception of two intersections, for Residential use. The majority of rezoning requests for the Mountain Ranch project is consistent with the land use plan for future residential uses and is compatible with surrounding properties that are developed residentially or commercially. While the commercial zoning requests near Persimmon and Shiloh are not necessarily consistent with the Future Land Use Plan, staff finds that the significant changes in character of this area of the city in the past 3-5 years warrants a commercial node to allow for commercial services within close walking or driving distance of developing residential areas, thereby accomplishing many other goals of the General Plan 2020 by decreasing vehicle dependency and traffic and locating commercial and support services near residential areas in a compatible manner.

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 majority of the proposed rezoning requests is consistent with current land use planning objectives and policies and is compatible with adjacent properties in the same district. Surrounding properties are very mixed in use, containing multi-family commercial, agricultural and single family uses. Adjusting the zoning lines west of the proposed street on the steeper slopes to RSF-2 is highly desirable, as this zoning district is appropriate for a lower density development that protects the hillside. Similarly, zoning those areas that are less steep but still located on or near the mountain to RSF-4 allows for residential development that provides a transition between adjacent existing and proposed uses. Additionally, Parcel No. 5 is requested to be down-zoned from C-1 to RMF-12, which will provide a transition between the low density single family development planned to the west and the more intense commercial development planned to the east along the major transportation corridors. With the adoption of the hillside/hilltop overlay district, hillsides within this district are afforded additional protection, including less disturbed area, higher preserved tree canopy, etc. while

allowing the developer to be more flexible with building setbacks and street design standards to create clustered, more dense development as opposed to spreading it over the site as is typical on more flat land. For these reasons staff supports the proposed RMF-12 zoning requests. Parcels 9 and 10 are requested to be zoned slightly higher, to RMF-18. Staff finds that the amount of hillside in these areas are insignificant, and those that are will represent the most desirable for preservation at the time of development.

Staff is recommending for the rezoning of Parcel Nos. 1, 2 and 8 to the C-2 zoning district, with the offered Bill of Assurance that limits the more intrusive uses of a C-2 district. This Bill of Assurance mirrors that which was discussed in detail and itemized certain uses by Use Unit through the Planning Commission review of previous zoning requests in this area. In discussions with the applicant regarding staff's initial findings against the C-2 zoning, the uses intended for this property do not include many of those allowed within the zoning district, and thus have been offered to be removed, subject to approval of the rezoning. Staff finds that a limited neighborhood commercial zoning area at this important future east terminus of Persimmon Street with supporting office, retail and restaurant services for the surrounding, developing residential areas is appropriate and warranted.

The original proposal for Tracts 7, 8, 9 and 10 was a request from R-A to RMF-24. At the time of the request, staff could not recommend this rezoning, finding the existing hillside, without adequate protection measures in place and a City Council directive to establish a hillside protection district, was not appropriate for high density multi-family use with current development practices. Staff recommended that the request for rezoning to RMF-24 be modified for area E (see attached diagram labeled "Mountain Ranch") east, generally along the western boundary of the I-540 Design Overlay District. Staff supports a higher density/intensity use along Shiloh Drive, finding that this area is not appropriate for single family or agricultural uses, and should be utilized for those uses that generate higher volumes of traffic, given the proximity to I-540. The applicant's request has moved the zoning line to the east, almost to the I-540 boundary, and requested the area west be zoned RSF-2 (Parcel #7). Parcel 8, with direct access to Shiloh, is requested to be C-2, and falls within the Design Overlay District. Parcels 9 and 10 are requested to be zoned RMF-18 instead of RMF-24; staff can support these requests, given the recent adoption of the Hillside/Hilltop overlay district (see attached), and finding these uses will provide an appropriate transition between single family and commercial uses planned in this area.

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

Finding: The proposed zoning is justified in order to promote orderly and consistent

development patterns. The General Plan 2020 Guiding Policies for Residential Areas includes "site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure and retail and commercial goods and services." The proposed master planned community will include all of these services, including increased accessibility with improvements to surrounding streets and the construction of Persimmon Street, access to the Boys & Girls Club and walking distance to the new Ruppel Road School, along with proposed neighborhood commercial areas and easy access to I-540 to travel to larger regional and community commercial centers within Fayetteville. The use of the property for agricultural means is no longer desirable or needed, and rezoning the subject property will allow for development of property already within the city limits with access to existing infrastructure and support services. Those parcels that are requested to be adjusted will further these goals of creating appropriate transition zones of single family to multi-family to commercial areas, all within close proximity. Though a conceptual Planned Zoning District may have been more desirable, with regard to evaluating overall land use and densities, the applicant's goals of land use do fit existing zoning criteria. Additionally, had a PZD been approved indicating the previous zoning areas, it is very likely that a modified PZD would have had to be processed again with these changes, much like the current rezoning requests.

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

Finding: Future development on the overall 350 acres will create traffic in the area. However, the proximity of the property to Shiloh Drive and I-540, along with the construction of Persimmon Street through from Ruppel Road, is positive for the development of this property at the density and intensity requested. Additional street improvements and access points will be required as development proceeds, and a connection south to Hwy 62 via Ruppel Road to the west will eventually provide a western north-south connection. Traffic danger and congestion should be minimized if the appropriate improvements to surrounding streets and interconnectivity is required at the time of development.

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

Finding: The proposed zoning would not substantially alter the population density in the area from the zoning that is existing and that which is proposed. Public service providers have responded accordingly:

Police – *Comments from original rezoning proposal.* This rezoning will substantially

alter the population density, and increase the numbers of calls for service. While difficult to project the future calls for service, developments of similar densities and size, when compared, total approximately 3.5% of the total annual calls for service. In comparing the requested RSF-4, RSF-2 and RMF-24 zoning districts to similarly developed areas in the city, an anticipated 0.7% increase, 1.4% increase and 1.5% increase in calls for service, respectively, is anticipated with maximum build-out of the property in question. This does not take into account, however, the time it takes to build out a development or the improved infrastructure required as part of the development. Based on information of the future street plans for this area, the completion of Ruppel Road, Persimmon Street and potential connection with Old Farmington Road from the I and J sections should aid immensely with traffic congestion in the area.

Fire – The Fayetteville Fire Department has reviewed the request and has estimated that the response time from Fire Station #7 (Ruppel Road) to the site would be approximately 4 minutes for a distance of 1.6 miles. It is anticipated that when Persimmon is extended west from Betty Jo Drive, the response time will be decreased to 3.25 minutes. These times do not include any of the planned extensions or access points from Ruppel and Persimmon, which should greatly enhance response time and level of service for this area once constructed.

Engineering – There are currently water lines and sewer lines adjacent to several of the areas in question, though not all. A sewer analysis will be required at the time of development, in order to determine if capacity is available at that time for downstream lift stations. Both water and sewer lines will be required to be extended into and within the development, by the developer.

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

Finding: N/A

161.06 District Rsf-2, Residential Single-Family – Two Units Per Acre

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (one acre and over) and areas that have developed with smaller lot sizes (8,000 sq. ft.), and to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	2
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(D) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot area minimum	21,780 sq. ft.
Land area per dwelling unit	21,780 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
30 ft.	15 ft.	30 ft.

(F) *Height regulations.*

Building height maximum	35 ft.
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(G) *Building area.* None.

(Code 1991, §160.045; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

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

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.11 District Rmf-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	4 to 12
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

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

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

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

(G) *Building area.* None.

161.12 District Rmf-18, Residential Multi-Family – Eighteen Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	4 to 18
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(D) Bulk and area regulations.

(1) Lot width minimum.

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

(2) Lot area minimum.

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

(3) Land area per dwelling unit.

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

(E) Setback requirements.

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

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

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

(G) Building area. None.

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

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

(B) Uses.

(1) Permitted uses.

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

(2) Conditional uses.

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

(C) Density.

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

(D) Bulk and area regulations.

(1) Lot width minimum.

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

(2) Lot area minimum.

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

(3) Land area per dwelling unit.

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

(E) Setback requirements .

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

Cross reference(s)—Variance, Ch. 156.

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

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

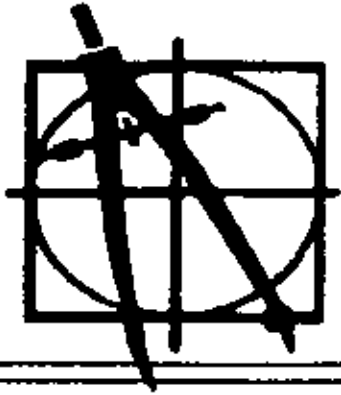
(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.



JORGENSEN & ASSOCIATES

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CHRISTOPHER B. BRACKETT, P.E.

C. 8
RZN 06-2028
Mountain Ranch C-2
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3/28/06

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept.
Re: Mountain Ranch Phase 2

Enclosed herewith please find the applications and documents for the rezonings of portions of the Mountain Ranch project. The rezonings are explained as follows;

- 1) Parcel #1 existing zoning is C-1 and the request is to zone to C-2
- 2) Parcel #2 existing zoning is RMF-2 and the is to zone to C-2
- 3) Parcel #3 existing zoning is RSF-4 and the request is to zone to RMF-21 due to slight change in road alignment
- 4) Parcel #4 existing zoning is RSF-24 and the request is to zone to RSF-4 due to change in road alignment
- 5) Parcel #5 existing zoning is C-1 and the request is to zone to RMF-12 to provide a buffer between the commercial and the residential
- 6) Parcel #6 existing zoning is C-1 and the request is to zone to RSF-2 due to change in road alignment.
- 7) Parcel #7 existing zoning is R-A and the request is to zone to RSF-2.
- 8) Parcel #8 existing zoning is R-A and the request is to zone to C-2
- 9) Parcel #9 existing zoning is R-A and the request is to zone to RMF-18 to provide a buffer between residential and commercial.

10) Parcel #10 existing zoning is C-1 and the request is to zone to RMF-18

All property will be served by water and sewer that will be extended into the subdivision. Access will be from Persimmon Street, Shiloh Dr., Old Farmington Rd and Mtn. Ranch Blvd.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner(s), developer, or buyer of this property, (hereinafter "Petitioners") *Reserve, LLC.*, hereby voluntarily offer this Bill of Assurance and enter into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioners expressly grant to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioners or Petitioners' heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioners acknowledge that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' rezoning request.

Petitioners hereby voluntarily offer assurances that Petitioners and Petitioners' property shall be restricted as follows IF Petitioners' rezoning is approved by the Fayetteville City Council.

1. The use of Petitioners' property described in Exhibit "A" attached hereto shall be limited to those uses permitted by right and by conditional use in the C-2 zoning district, with the exception of the following:

Permitted Uses to be excluded:

- a. Unit 20: Commercial recreation, large sites
- b. Unit 33: Adult live entertainment club or bar

Conditional Uses to be excluded:

- a. Unit 21: Warehousing and wholesale
- b. Unit 28: Center for collecting recyclable materials
- c. Unit 32: Sexually oriented business
- d. Unit 36: Wireless communications facilities

2. Further, the use of the petitioner's property described in Exhibit "A" attached hereto shall exclude the following uses in the Use Unit 17 designation:

Buses, Manufactured home sales, used car lots, farm supplies and equipment and repair, auctioneer, cabinetmaker, tattoo services, taxidermist, tool sharpening service and motor repair.

3. The use of the Petitioner's property described in Exhibit "A" attached hereto shall exclude the following specific uses in the Use Unit 19 designation:

Bowling alley, slot car track, skating rink.

4. Petitioners specifically agree that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners' rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, *Reserve, LLC.*, as the owners, developers or buyers (Petitioners) voluntarily offer all such assurances and sign our names below.

5-3-06
Date

123 College
Address
Kay Ave 72207

Tom Termmura
Printed Name

[Signature]
Signature

Date

Address

Printed Name

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 3 day of May, 2006, appeared before
me, Tom Terminella and after
being placed upon his/her oath swore or affirmed that he agreed with the terms
of the above Bill of Assurance and signed his name above.

Jamie R. Terminella
NOTARY PUBLIC

My Commission Expires:

4/13/2015

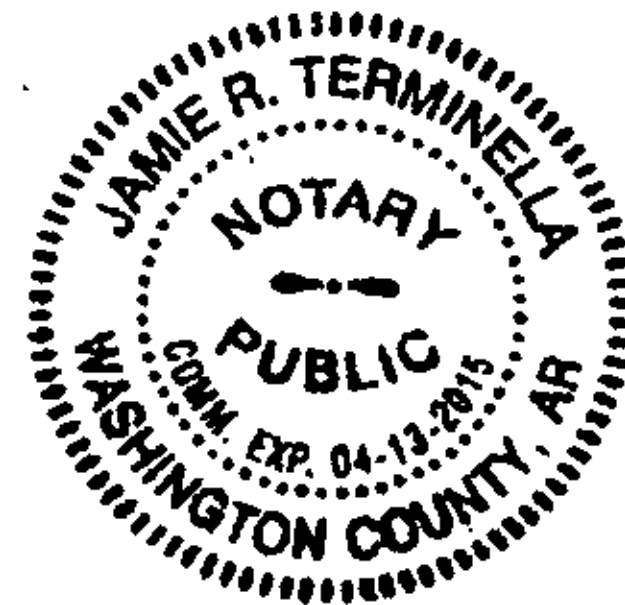


EXHIBIT "A"
RZN 04-

LEGAL DESCRIPTION: (Parcel "1" C-1 to C-2)

Part of the NE1/4, NW1/4 and part of the SE1/4, NW1/4 of Section 18, T16N, R30W in Washington County, Arkansas and being described as follows:
Commencing at the NE Corner of said SE1/4, NW1/4 thence South 584.44 feet, thence West 453.75 feet to the P.O.B., Thence S84°09'20"W 2.11 feet, Thence along a curve to the left 1347.16 feet, Said curve having a radius of 1275.00 feet and a chord bearing of N36°06'50"W 1285.36 feet, Thence N66°22'59"W 92.26 feet, Thence N03°03'43"E 204.01 feet, Thence S86°55'01"E 1069.13 feet, Thence S10°32'43"E 3.06 feet, Thence S17°49'52"E 210.49 feet, Thence S21°40'11"E 323.12 feet, Thence S56°05'41"W 145.17 feet, Thence S25°05'22"W 703.02 feet to the P.O.B.; Containing 16.38 Acres more or less.

LEGAL DESCRIPTION: (Parcel "2" RMF - 24 to C-2)

Part of the NW1/4, NW1/4 of Section 18, T16N, R30W in Washington County, Arkansas and being described as follows: Commencing at the NE Corner of said NW1/4, NW1/4 thence South 59.76 feet, thence West 3.16 feet to the P.O.B., Thence S03°03'43"W 840.94 feet, Thence N66°22'59"W 58.23 feet, Thence along a curve to the left 101.80 feet, said curve having a radius of 500.00 feet and a chord bearing of S32°54'04"W 101.62 feet, Thence N02°26'00"E 907.38 feet, Thence S87°35'25"E 115.05 feet to the P.O.B.; Containing 2.14 acres more or less.

LEGAL DESCRIPTION: (Parcel "8" R-A to C-2)

Part of the NE1/4, NW1/4 and part of the SE1/4, NW1/4 of Section 18, T16N, R30W in Washington County, Arkansas and being described as follows:
Commencing at the NE Corner of said SE1/4, NW1/4 thence S02°57'58"W 541.99 feet, thence S84°09'20"W 427.95 feet, thence N25°05'22"E 703.02 feet, thence N56°05'41"E 145.17 feet, thence S14°47'03"E 137.78 feet to the P.O.B., Containing 4.16 acres more or less.



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Battalion Chief, Bud Thompson
From: Captain Dale Riggins
Date: May 1, 2006
Re: May 1 Zoning Review – Fire Department Comments

~~PZD06-2035 (The Maples)~~

~~These 1.91 acres is covered by Engine 2 at 700 N Garland.~~

~~It is 1.2 miles from the station with an expected response time of 3.75 minutes.~~

~~The Fire Department anticipates 5 (3 EMS – 2 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.~~

~~Measured Hydrant Flow in this area is 1565 gallons/minute.~~

~~The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.~~

~~ANX06-2046~~

~~RZN06-2047 (Old Wire Investors)~~

~~These 34.51 acres is covered by Engine 5 at 833 N Crossover.~~

~~It is 3.1 miles from the station with an expected response time of 6.25 minutes. When the new station 5 is put in service at Crossover and Old Wire the distance will be reduced to .7 miles and the response time will decrease to 2.25 minutes~~

~~The Fire Department anticipates 31 (19 EMS – 12 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.~~

~~There has been no measured hydrant flow conducted in this area.~~

~~The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.~~

* **RZN06-2028 (Mountain Ranch)**

These 229.53 acres is covered by Engine 7 at 835 N Ruppel.

It is 1.6 miles from the station with an expected response time of 4 minutes. When Persimmon is extended past Betty Jo, the response time should be decreased to 3.25 minutes and even less time and distance when Persimmon is extended to Ruppel Road.

There has been no measured hydrant flow conducted in this area.

We do not figure calls for service on property where the request is to modify the boundary of the zoning districts.

~~**RZN06-2048 (Tetra Investments)**~~

~~These 1.37 acres is covered by Engine 6 at 900 S. Hollywood.~~

~~It is 1.1 miles from the station with an expected response time of 3.75 minutes.~~

~~The Fire Department anticipates 7 (4 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.~~

~~There has been no measured hydrant flow conducted in this area.~~

~~The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.~~

~~**RZN06-2049 (Combs)**~~

~~These 62 acres is covered by Engine 1 at 303 W Center.~~

~~It is 1.9 miles from the station with an expected response time of 4.75 minutes. When the proposed Station 3 is put in service at Happy Hollow and E Huntsville, the response time will decrease to 2.25 minutes.~~

~~The Fire Department anticipates 337 (204 EMS – 133 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.~~

~~There has been no measured hydrant flow conducted in this area.~~

~~The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.~~

~~**RZN06-2050 (Wales)**~~

~~This 1.42 acres is covered by Engine 5 at 833 N Crossover.~~

~~It is 2.1 miles from the station with an expected response time of 5.5 minutes. When the new station 5 is put in service at Crossover and Old Wire the response time will increase to 6 minutes. Measured Hydrant Flow in this area is 835 gallons/minute.~~

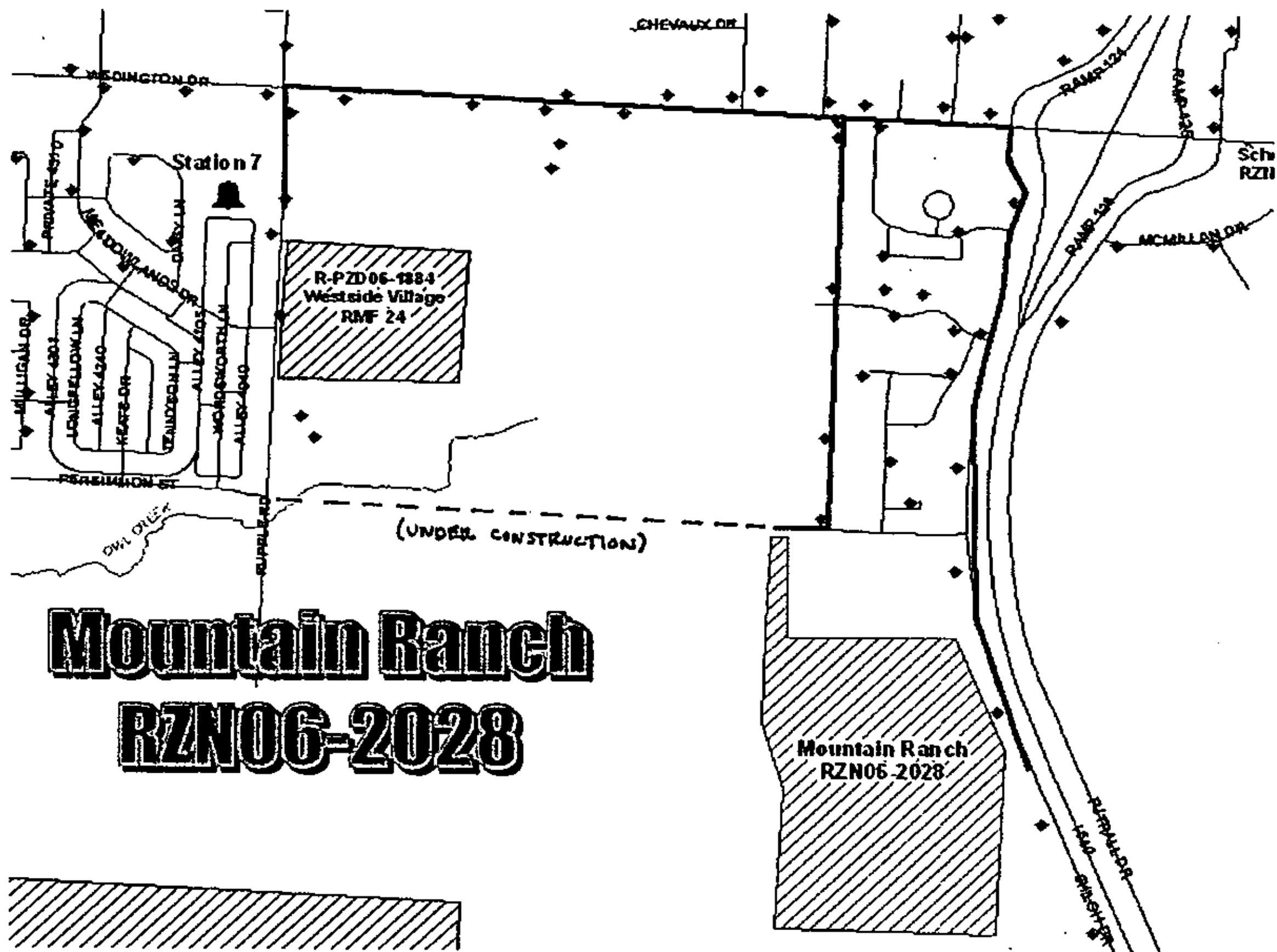
~~There are no anticipated calls for service for a zoning this small and there should be no adverse effects on our response time to this annexation.~~

Please contact me if you have any questions or concerns.

Dale Riggins

479-444-3448

Fayetteville Fire Department



Ostner:

The next items on our agenda are Rezoning requests for one large piece of property or many pieces of property conjoined. We will talk about them as one item and vote on theme independently. RZN 05-1560, Mountain Ranch A1; RZN 05-1561, Mountain Ranch A2; RZN 05-1562 Mountain Ranch B; RZN 05-1563, Mountain Ranch C; RZN 05-1564, Mountain Ranch D, F, H, I, J; RZN 05-1565, Mountain Ranch E; RZN 05-1566, Mountain Ranch G. These are all of the items that Jeremy is going to cover in his staff report.

Pate:

First, I would like to mention that you don't have to make a motion separately on each one of these. Some of those that are recommended for approval you can make a motion for that and the ordinances will reflect that that go to City Council. If you recommend denial I would recommend that you specifically call out that rezoning to recommend denial on that one. Just as an option here for these rezonings, because there are so many, I would like to keep them together when recommending for approval. Whoever makes that motion for or against or modified keep that in mind. Actually, staff is recommending three different things on this so you might get to make three different motions. This property is located within Fayetteville. It is west of I-540, south of Persimmon Street, north of 6th Street. It covers a lot of property there. There are a number of different zoning requests with five different zoning districts requested on this particular piece of property. You may remember this most recently by the approval of the subdivision directly to the west, Mountain Ranch Phase I. That is a single family residential subdivision that was approved at the last Planning Commission meeting with some pretty unique design features that this Commission saw. Additionally, in August, 2004 the area to the west of this, 80 acres was approved for Annexation and Rezoning to RSF-4 to allow for single family development in that location. This is approximately 450 acres of development that will be under the Mountain Ranch name in some point or another. On page 15.3 there is a chart detailing the zoning districts. They are called out in letters, A1, A2, B, C and all the way through J indicating what zoning districts are requested. Those include C-2 with a Bill of Assurance that is offered by the applicant. I have included in your report what those offerings are to limit the uses to prohibit some of the more objectionable within that district. C-1, Neighborhood Commercial and all of the uses located within the C-1 district would be allowed. That is a more neighborhood oriented commercial type of development. Area B would be RMF-24, Area C is requested as RSF-4, Residential Single Family, four units per acre. D, F, H, I and J is requested to RSF-2, Residential Single Family, two units per acre. That is the majority of the property with 52.3% requested for RSF-2. Area E, RMF-24. As noted, staff is recommending modifications to this request. I believe in speaking with the applicant after this report was published that he does have some comments regarding that as well. Area G, RSF-4 containing 41.48 acres

for a total of approximately 370 acres give or take. With regard to access, some of these tracts have extremely adequate access and some will have to be built into the property. Access to Shiloh, a collector, Persimmon Street, which is also a collector, to the north. Improvements will be required to both Shiloh and Persimmon as needed and as indicated by the Planning Commission based on the development plans submitted. Those may include right of way dedication, sidewalks per the Master Street Plan, widening of streets, etc., the typical things that you do see with Preliminary Plats and Large Scale Development. Additionally, there is access to Old Farmington Road with potential access to 6th Street. Those will be evaluated as well by potential off site improvements. Public water is adjacent to or near most of the area in question, not readily available without additional extensions, but as development occurs with the school to the west and Phase I of the applicant's property those become more readily available. There are some long range water distribution improvements planned in the area along Ruppel Road with upsizing the water lines as well as along Persimmon, some of which is cost sharing with the developers in the area. Currently the site does not have immediate access to sanitary sewer but, much like water, access will be provided adjacent to or nearby with development that is continuing at this time. There is an 18" sewer force main along Shiloh Drive and several points of discharge to which the applicant and developer could connect for the sewer discharge. A study of the downstream system will be conducted as part of the development process. The Fayetteville Fire Department has reviewed the request and estimated fire response time from the Fire Station #7 on Ruppel Road would be about three to five minutes. However, at this time Ruppel Road south of Persimmon and Persimmon is not constructed so therefore, they have no means right now to understand what the timing would be. They actually went around and so that is the longest time that they could access this property. Those times would be shortened by direct access to Ruppel and Persimmon. The Fayetteville Police Department responds that with a substantial increase in population that they will have more service calls. That is a logical conclusion and something that we've discussed several times at Planning Commission and at City Council. Obviously, it is an increase over the R-A zoning district that it is now with one unit per two acres. There is some comparison that the Police Department compared these developments to. One being Barrington Parke and another in this area, those were similarly developed densities; one of which was about 2.2 dwelling units per acre and one that was a little higher, those are the two units per acre and four units per acre that are requested. The Future Land Use Plan designates this site for residential use and a majority of the rezoning request for the Mountain Ranch project staff finds is consistent with the Land Use Plan for future residential uses and is compatible with surrounding properties that are developed residentially or commercially. There are zoning districts directly adjacent to some of these properties that are zoned C-2 and RMF-

24 and R-A and RSF-4 and RMF-24. Obviously, the size of the property will dictate some of that. There are some commercial zoning requests near Persimmon and Shiloh. Those are not necessarily consistent with the Future Land Use Plan that was adopted in 2001. However, things have changed in this area since 2001. At that time we did not have a Boys and Girls Club, we did not have a Fire Station and we did not have a School. With the development that we are seeing, I don't believe that Ruppel Road was even constructed in 2000. Things have changed dramatically in this area. We typically look for small node commercial development to supplement and support residential development nearby. Staff finds that these two collector streets are ideal for that location directly adjacent to multi-family development. It would allow for ingress and egress currently with existing infrastructure. Persimmon is currently built at a 36' wide cross section and Shiloh is also developed as an arterial in that area. With regard to findings, they are extremely long in this case. This is a very big Rezoning application. It is the biggest that I'm aware of in the last 11 years since CMN was rezoned to C-2. It is a big decision and that is why we have taken a lot of time and looked at these individually. With the findings, staff finds that the rezoning requests are justified in order to promote orderly and consistent development patterns meeting our development standards that the Planning Commission and City Council have adopted. We do not feel that the Rezonings would create or appreciably increase traffic danger and congestion if the improvements required of the developer are consistent with the improvements typically required of development. The proposed zoning would substantially alter the population density above what is allowed by the R-A zoning district. However, RSF-2 is extremely low density. That is 52.3% of the property, almost 200 acres would yield a maximum of 400 units developed at it's entire maximum allowed density. With those findings staff does support Rezonings A2; B;C;D;F;G;H;I and J listed in your staff report based on the findings included as part of this report. With regard to the second recommendation, staff is also recommending approval of the requested Rezoning of the A1 tract from R-A to C-2 subject to the offered Bill of Assurance that the applicant has offered verbally and with some written documents, but it is not signed yet, limiting the potentially incompatible uses located within the C-2 zoning district but allowing uses that are located for convenience and accessibility along major thoroughfares and do not present a threat to the integrity or compatibility of adjoining neighborhoods. If you will note on page 9, I have stricken the uses that are currently offered as being removed. I believe the applicant has concerns with Use Unit 17 and Use Unit 19 so we will deal with that in more detail with the applicant's discussion with the Commission. Additionally, staff is recommending denial of one of the requests in it's current configuration. We have spoken with the applicant about this as well. Our primary concern is with Area E rezoning that to RMF-24 on the slope area. While we understand that this was an area that was sparred by

fill and excavation materials from the creation of I-540 and some of the interchanges here, it does still present a challenge with regard to our slope in this area. As you know, the city is looking at some development ordinances that would help protect hillsides so that staff could confidently recommend RMF-24 because it would have those hillside protection ordinances in place. We do not have that however and simply rezoning that straight out to RMF-24 is something that staff feels that the Planning Commission nor the City Council is looking for in this case. Our findings do not support that. We would recommend that multi-family zoning is appropriate in some of these locations. Density is perfectly appropriate next to schools, next to public centers like the Boys and Girls Club, close to infrastructure that is adequate currently to meet the needs as well as infrastructure that is being improved to the west. Potentially, it is our finding that multi-family development zoned RMF-24 is appropriate, not necessarily though on those hillsides. We would respectfully request that that zoning line be moved to the east currently to about the DOD boundary. With the development we could look at a PZD potentially to allow for appropriate development on the hillside sometime in the future. With those three different recommendations, I am available to answer questions.

Ostner: Thank you. Is the applicant present?

Terminella: I am Tom Terminella with Terminella & Associates here in Fayetteville at 24 E. Meadow. It is a big project, there is a lot of history behind it. There are a lot of things that we need to move forward with and get done for the welfare of everybody that adjoins and owns property out that way pertaining to the Persimmon and the Ruppel improvements that need to be done in order to deal with the mass amount of development going on in that part of the world. I do want to step aside. There are a few neighbors here that I have not had an opportunity to visit with. I want to make sure that we hear their concerns if any. There are four or five people that did contact me that adjoin our farm, the ranch out there. Either through Council or our staff at the office they were able to explain and overcome any concerns that they had over the last week or ten days. I'm not sure if my neighbors want to voice their concerns but I sure want to give them the opportunity before we jump in the middle of this. With that, I will step aside and you can open it up to public comment.

Ostner: We will hear public comment. Please introduce yourself and share your comments.

Marinoni: My name is Paula Marinoni. We sold a large portion of that property to Tom Terminella. My family owns a lot of property on the west side of town and with that comes the responsibility of stewardship. We are not developers. Many of you know that I have been to thousands of city

planning meetings over the years laboriously trying to figure out what to do with the property. How to help the family transition it into something that would benefit our community. We have asked for help from the city and we haven't gotten it. We have asked for direction and so we tried to do this ourselves. With this property we offered it to Mr. Terminella under the requirement that it must be a Planned Zoning District. That was in our contract with him. It went on and on and on and on and on of dragging it out for almost a year. Finally, it looked like it is going to take a long time. There is nothing in place right now, it is going to have to be staged, the city is going to have to figure this out. We had him put that in writing to us that he would promise us that that would be a Planned Zoning District and we closed on it. All of this time since last November I have been told and lead to believe that that is going to be a Planned Zoning District. Needless to say, I was very disappointed, shocked and upset to read about this in the paper yesterday of cutting it up like a piece of pie. We sold this to him at a good price and we looked him in the eye as an old family friend of some of the family and told him "We have faith in you. You have the ability to do this right. You take this to the city. You plan this whole big piece and make it beautiful and make my father proud. Make it make sense and be good to the community." We put it into the hands of the city under the Planned Zoning District that the city would then have the ability to scrutinize and make sure that it came within the Fayetteville Vision 2020 Guiding Principals #1, a Naturally Beautiful City, our Mountains and Hills. I cannot believe that the city staff is recommending approval for this with only the question of that one RMF-24 on a slope. It is only two units per acre on 196 acres of it. That 196 acres is a mountain side! Some of it is so steep that you have to crawl up it. He is going to butcher it!

Ostner: We are going to try to talk about this land and not about Mr. Terminella. Stop accusing the land owner.

Marinoni: When the PZD process started the city pointed out that the Planning Commission was trying to go outside of their authority in telling people how to develop property. You were trying to design it and what is it going to look like and what are the materials and you didn't have the legal right to do that. All you had the legal right to do was to say does it fit that zoning and to allow it to zone. They could come in with all of the pretty pictures that they wanted and after they left here they could throw them all in the trash. That is why the city went to the PZD which gave the people the opportunity to see what was going to happen. He can still do that. It can still be phased in. Steele Crossing was 305 acres and that was a mistake. At the point that they gave blanket zoning the city lost control and then they came back and they said now we need a four lane, now we need this, no, we aren't going to preserve those trees. You know what happened as a result of that. There was no control anymore. I personally

do not believe that he is going to do this. I think he will have the ability to get the zoning and then flip it and sell it off to somebody else who doesn't have to follow his plan. This is 368.9 acres. There is no reason on this earth to give him the zoning on all of that at one time, especially that mountain. You will really look back on that and say we messed up if you allow that to happen. There is no way that you can put homes on there 1/2 acre each and it not be a disaster. We wanted this to be unique. You said he is giving a Bill of Assurance. He gave us a Bill of Assurance, he gave us his word multiple, multiple times.

Ostner: Ms. Marinoni, you are talking about your relationship with Mr. Terminella, you need to talk about this piece of property.

Marinoni: It is a mistake! Nothing like this has ever come through and it is really sad that it is at 9:00 at night. How is it possible that there aren't people to address this here? Is it because they don't understand what this means? I have told people all along you don't have to worry, it is going to be a PZD. They will do it in phases and it will be done nice. Now it is not. If you zone this in the seven chunks like this it will just be sold off and it will come back to you piece by piece and piece by piece you will say that was a mistake. I am sorry. This makes me sick to my stomach to have to stand here, to have to come here tonight and do this and have to potentially watch that mountain be butchered when we were promised something different. I'm sorry, I don't even want to hear the discussion on it. I will leave it in your hands.

Hecox: My name is Tom Hecox, I'm with TWH Consulting and I've been asked to speak to you on behalf of Karen Greenway and Phyllis Pope who are unable to attend this meeting. Karen Greenway has lived on a five acre tract at the end of Dinsmore Trail for over 20 years. Her mother owns another five acre tract just to the south of that. The adjoining tracts of land are Tracts I to the west and Tract J to the south. When Karen was first aware that the adjoining property was being purchased she met with the owner and it was her understanding that this was going to be developed in five acre tracts. Now we are here at a rezoning to make this 1/2 acre lots open for development there. Karen wasn't notified. She did not know about this rezoning, even though her property was adjacent to Tract I, she found out through a letter that her mother had received on this. Obviously, this is not the type of adjacent development that one desires when you move out to the country. You expect to be in the country, to have a lot of wooded area, green space, open space. Also, the sole access to Tract I is going to be Dinsmore Trail at this point. That is pretty much a single lane from the last route up to the mountain. It has a single lane low water bridge on it and there is going to have to be extensive infrastructure work done for this to work. It is not going to adequately handle a large subdivision development with 1/2 acre lots at the end of it. It doesn't have

that kind of capacity. The low water bridge is right as Dinsmore Trail exits Hwy. 62. As you head up the mountain the trail becomes more winding and more narrow. The last turn on it is actually a hair pin turn to get up to the property that you are talking about there. There will be some issues on it. We are not suggesting that no type of development be done here. As has already been pointed out, there is a lot of wildlife habitat up there. It is going to be impacted. This is a very natural area, a very beautiful area there on the mountain. Naturally, they would like to see it remain that way. At this point all we are asking is to keep the zoning as R-A for now. The main tract that is adjoining their property is Tract I. Tract J is a huge piece of property that has access off of other roads. Tract I is accessed off of Dinsmore Trail. We would like to see that zoning remain as R-A.

Ostner: Is there anyone else from the public who would like to speak?

Bottoms: I am Bill Bottoms, I live at 2828 Old Farmington Road. My main concern is the traffic problems. As we all know, Fayetteville has a traffic problem. We got Wal-Mart and Lowe's and it has become a bottle neck out here for people coming into Fayetteville and going out of Fayetteville. To try to get into town from 7:30 is almost impossible. There is a wreck out there everyday. They use Old Farmington Road as a cut through. This is a very narrow road. There are elderly people who walk on it. There are no sidewalks, no shoulders, it is just black top and ditch. That is my main concern. If this development is going to use this road for access, make this road wider and get some sidewalks there. They are going to use that as a cut through because that is the only way they can get to the motels and stuff out there.

Sloan: I am Charlie Sloan, one of the land owners and I live out by this project just to the west of it. I admire Mr. Terminella for taking on such a large project. It does take a lot of vision to decide where you want to put things. We looked it over, I represent the McBride's next to them. Looking at this layout, it is very logical for what we had once looked at this property too potentially. I think you have to do some multi-family and you need some commercial there at Persimmon. That is a growing area out there, as you all know. I know some of the traffic problems exist, we are working with Mr. Terminella about Ruppel Road extensions and things like that. I know he is working on Persimmon extension to the east now. We are for the project. I know it takes multiple facets of zoning up there. I don't know what projects or promises were made as far as whether it should be a PZD or whatever, but in order to design something this big he needs to know what zonings he can use, where he can have zonings at. I know we are working on a conceptual PZD with the city, but once again, I think that is still in committee so we can't bring a PZD to you to let you see a concept. To fully engineer a project of this size he would be forever designing

every road and every path and everything in place like it needs to be. Before he goes to that expense I understand that he needs to know what he can do with this project and what is your vision. I think tonight is sort of where you will hash out the zoning by breaking it up whether or not you agree with what his vision is.

Ostner: Would anyone else like to speak to this issue? I am going to close it to public comment and bring it back to the Commission.

Terminella: For those of you who have followed this process for the last 19 months since we acquired this property, put it under contract and brought it to the city as a PZD and spent in excess of nine months and six figures doing the overall master plan for this particular subdivision and land use plan. We attempted to move it forward under that understanding. As you are aware, our current PZD vehicle to do that level of planning requires me, as the developer, to civilly go to the point of unknown. When you have 200, 300 or 400 acres of ground and civilly do land planning, land use and then walk back into this chamber with no assurance of approval, you can see why we have taken our preliminary road design, which is totally preliminary, with the exception of our first phase RSF-4 site that was approved through this body. We have to have an understanding of land use and it's density in order to do the civil aspect. I will use Phase I as an example. We have RSF-4 zoning there. We have 2.17 units per acre. It is the flattest part of the development. We could have got four units per acre with 70' lots. We could have land harvested the ground and got maximum density with no consideration to anybody but the almighty dollar. We chose not to do that. We came up with what we feel is a community driven development. Ms. Marinoni's comments, I'm saddened and disappointed at her behavior and how she handled herself this evening. Paul Marinoni III works in my firm. He represents this project. He has no issues with it. I am sorry that others are uninformed and working from bad information. We are simply doing as the city asked and requested of us. This would not fit the R-PZD under the current plan that is in place as an ordinance. With regard to Dinsmore, there is no access from this preliminary plan off of Dinsmore. The only thing that Dinsmore serves is my home at 3425 Dinsmore on the top of the mountain. In regard to the gentleman that just spoke, Ms. Pope has been up there a long time. I would have reservations on any plan of anybody that owned land on all three sides of me. I have gotten along with her. I can assure you our intended use for the lion's share of this farm is half the density that Mt. Sequoyah is today. Our desire is simply to provide the necessary commercial services and the RMF density that has been requested by the members of this Commission in what we feel makes sense with RMF areas in the areas of schools and minor and major road arteries. Pertaining to Old Farmington Road, it is under improved, it is a cut through, there is tremendous traffic. There are things that will be done to that road with the

LSDs on Hwy. 62 and all of that land that has gone under contract. Some of that land adjoins Old Farmington Road. Old Farmington Road in the very southern end of the project on the bottom of the page will be 4-6 years out as far as this development. Certain things will happen. Collectively city staff, which has done an excellent job of meeting with me, we understand the need for connectivity between the Hwy. 16 and Hwy. 62 valley. Mr. Sloan spoke positively on it. We are working with the city. We are dealing with cost share. We are providing right of way. We are gifting of land. We are doing all of those things with the common goal of working in tandem and solving the problems that we see coming on line for the western part of this city. I grew up in this part of town on Hall Street. Paul Marinoni III works for me. He has a vested interest in this farm. We think we have done what has been asked of us. This is what we can make the best sense of and respectfully, as far as staff is concerned, the one issue that they cannot fully agree with and agree at this point, we respectfully withdraw that rezoning request on the 16 acres of RMF to leave it as R-A until we are able to civilly make a clear understanding of where that road right of way is going to go and how it would visually impact I-540 and the DOD. With that, I will be happy to answer any and all of your questions. Thank you.

Myres: Are you talking about E?

Terminella: It would be RZN 05-1565 the request to go from R-A to RMF-24 with 16.88 acres. That particular parcel, my issue with this, this is C-2 and this is RMF-24, you tell me what needs to be done there. I'm only trying to make some sense of it. I am already surrounded by some intense development there. I will work with staff on that issue. I respectfully pull that one and leave it as R-A, when we get our civil work done to that point then we will make some sense of it.

Anthes: We do not have the Bill of Assurance before us but we have the intent of it. You said that there were some questions on Use Unit 17 and Use Unit 19. Staff, what sorts of things are included under Use Unit 17 Trades and Services and Use Unit 19 Commercial Recreation Small Site? Then could I hear from Mr. Terminella about why you might want to be leaving those in now?

Pate: Certainly. Use Unit 17 carries a lot of our trades and services that you typically see in commercial districts, especially retail districts. It includes things such as medical, orthopedic appliances, everything from rug repair, re-upholstery, auctioneers, auto washes, motor repair. Some uses that are not necessarily that impact in the area. It does include things such as automotive sales, service and repair shops, manufactured home sales, truck sales including service and repair, used car lots and things at that nature that at these arterials at a very visible location within the I-540

Design Overlay District. We believe with the applicant, who is looking more for uses that would support the project that he is looking for. With the Bill of Assurance that Mr. Terminella has offered initially he had indicated that Use Units 17 and 19 might not be something that he would be utilizing any uses in. I think that has changed somewhat. Especially looking at specific uses that could be located within those Use Units. Use Unit 19, Commercial Recreation Small Site includes things such as billiard and pool parlors, bowling alleys, skating rinks, video arcades, indoor theaters. Some of those things are included in a lot of your "lifestyle centers", if you will, that you see across the country and they are going in now so I don't think that is necessarily objectionable either, specifically Use Unit 19. Some of the ones in Use Unit 17 however, I think will need to be looked over with a little more detail.

Anthes: Mr. Terminella, can you speak to those two items?

Terminella: Yes Jill. There are certain things based on my upbringing that I wouldn't have anywhere on the property. That would be adult entertainment, adult bookstores and things of that nature that I feel are offensive to me and my family and my beliefs. Some of the things that we got into after review it with Council. In the C-2 pod we have a motel group from out of state that is wanting to build a Class A or Class B facility. In that they could have an arcade or something of that nature that if we just agree to it carte blanche, wide open, it is going to create some problems for some potential franchisees in the future. Before we have a definitive game plan in place I will get with staff and strike the usages that I feel are offensive and would be offensive and detrimental for our overall land plan. It has a whole list of them here and I don't perceive a need for an auctioneer or a tattoo service. Some of this stuff is woven into the fabric of the overall guideline for usage and we just respectfully are asking for a little bit of time to sift through those and find the ones that don't make good sense to us. We don't see any car dealerships or repair shops. The price of the ground has gotten to the point out there where those things don't work. Topography doesn't lend itself to a bunch of that stuff being built and constructed.

Anthes: Mr. Whitaker, how would we act on this item without that list being developed to see it? I am talking about Tract A1 which is the one from R-A to C-2. How can we make a recommendation to City Council without a full understanding of what is being offered in the Bill of Assurance.

Whitaker: If you don't believe that at this point saying approve it now we'll work on it later, you don't want to make that leap of faith then you probably should vote against recommending it.

Anthes: Is tabling appropriate in that case? I would think that we would just be looking for that clarification.

- Whitaker: Tabling is certainly an option if you believe that they are within days or a couple of weeks of having this document but I don't know how close they are.
- Terminella: I can identify all of the ones that Jeremy handed to me before the meeting if you want to put it in the motion, I can identify the ones that I would strike and wouldn't allow within that area if that would be acceptable.
- Anthes: Can we do that verbally or do we need the written Bill of Assurance?
- Whitaker: You don't have to have the written Bill of Assurance but you can make it a condition of approval or of your recommendation based on that condition and then it goes to the Council with that in it.
- Anthes: I am confused because we are not talking about omitting whole Use Units. We are talking about going line item by line item within a Use Unit. I have never seen us do that before so I don't know how to handle it.
- Pate: We have done that in the past. Again, Bill of Assurance is offered by the applicant and not requested or required. The applicant has offered a Bill of Assurance to ensure C-2 zoning in this parcel. Currently the one that we have staff is supportive of and I believe that with a little more detailed look at the things in trades and services and things in commercial recreation small site, those are things that we could potentially look at tonight and forward with a recommendation. I think you have a number of options. You can recommend for denial, you can recommend for tabling, you can recommend for approval based on what the applicant is offering verbally, which is to include Use Units 17 and 19 if you feel that is appropriate and of course, it would exclude everything else that has been eliminated from Use Unit 17 and 19. It is about your comfort level and how you feel.
- Anthes: Mr. Terminella, can you verbally list what you would strike from Use Units 17 and 19?
- Terminella: Use Unit 17 the things that we would be striking would be auctioneer, linen supply and industry laundries, tattoo services, taxidermist, motor repair, tool sharpening and repair services, I don't believe we will have any cabinet makers on the interstate. The rest of them seem reasonable for a community or a residential area as far as services. Use Unit 19, I don't believe we are going to have another skating rink on the property. I feel certain that there won't be a spot car track and there are only about six items there that fall within that Use Unit category. One would be billiards and a pool parlor, I think I would leave that in primarily for the hotel user who has identified this property for a development. I'm not sure what their

intent is for the amenities of the hotel so I am operating cautiously on that. Bowling alley, I don't see there ever needs to be a bowling alley. Skating rink, I don't see that happening. Video arcade and indoor theater, possibly inside something of a resort type property. I would request that those stay in there. Skating, Slot Car, Bowling Alley would be extracted from that.

MOTION:

Anthes: I would like to move that we recommend approval of the requested rezoning, A1, from R-A to C-2 subject to the offered Bill of Assurance omitting Use Units as stated, permitted Uses 20, 33 and those portions of 17 and 19 offered by the applicant and Conditional Uses 21, 28, 32 and 36.

Myres: Second.

Ostner: You excluded Use Unit 21, 28, 32 and 36?

Anthes: Yes.

Ostner: My question is on Use Unit 17 you mentioned the items that you wanted removed. Would you mind going over the items that remain because we don't have that list in front of us.

Terminella: The ones that could potentially remain would be these, a lot of which I don't see happening, but I wouldn't feel comfortable striking them tonight without further dialogue and thought. Automotive sales, service and a body shop, that kind of goes with a car dealership like Landers or anything else there on I-540. Busses, I don't see that happening and I'm not even sure what that means. Manufactured Home Sales, I don't believe there is any of that area that would yield itself for manufactured home sales. Motorcycle sales, I think we just rezoned Mr. Bill Eddy's property in the old Hank's location to allow that happen, which is I-540 frontage in the Overlay so that is a possibility but doubtful. Truck Sales, Service and Repair, Trailer Sales, Camping, Hauling, Travel. Here again, I never see that happening, especially for my intended use for Mountain Ranch but here again, that is something that could happen. Farm supply equipment and repair. I don't think the property yields itself as far as price point, for that. Direct selling (general merchandising established) I'm not sure the intent of that but I don't think that is going to be happening. Then it goes on to say Animal Hospital, Packing and Crating, Rug Cleaning, Tool Sharpening, Auto Wash, Electrical Repair, Radio and Television Repair, Rug Repair. I can see some simple retail. I can see some R-O, Residential Office or physician base, whether it is dentistry or whether it is services geared toward a community driven planned area. I can't see to the end

game but I can visualize a 30 acre or 40 acre pod along I-540 that has services like that that would compliment the residential aspect of it.

Ostner: Thank you. We have a motion and a second, is there any further discussion? This is a big project. Call the roll.

Roll Call: Upon the completion of roll call the motion to recommend approval of the request to rezone from R-A to C-2 was approved by a vote of 9-0-0.

Thomas: The motion carries.

MOTION:

Anthes: I would move to recommend approval of requested Rezoning A2, B and C based on staff findings.

Trumbo: Second.

Ostner: We have a motion and a second on Tract A2, B and C. Is there further discussion? Call the roll please.

Roll Call: Upon the completion of roll call the motion to recommend approval of the Rezoning requests included for Tracts A2, B and C was approved by a vote of 9-0-0.

Thomas: The motion carries.

Anthes: On the items that the applicant chose to withdraw do we need to take any action?

Whitaker: No, his request is gone since he withdrew.

Anthes: The reason I stopped here is this deals with property adjacent to the highway and to Persimmon Street and to the development that has currently been passed and cleared that off the table for discussion about the rest of the pieces and I think that there may be some comments that we need to hear related to the neighbor's comments and about density and hillsides and things like that that we want to discuss so I thought we could clean out the easy ones and then we could work on this.

Vaught: I like RSF-2 here. Granted, I don't think it will develop to that due to the terrain. It is very steep. I didn't like leaving it R-A before when we left it here. For instance, someone could put a mobile home park in here by right now. Rezoning it to something to a RSF-1 or RSF-2 zoning would definitely be more favorable to me. RSF-2, I think it is nice to see someone bringing that forward so I'm in support of RSF-2. I think

anything above that would have been out of line but I think RSF-2 is a good place for this to fall. I doubt that it will develop to two full units per acre after parkland dedications and roadway right of ways and tree preservation and things are counted.

Ostner: Mr. Terminella, since we are talking about vision, how do you envision this parcel being developed? We are talking about the steeper areas in RZN 05-1564 encompassing areas D, F, H, I, J.

Terminella: After looking at the overall topography of the property one must keep in mind that Mt. Sequoyah, Skyline, Oklahoma Way, all of the roads on top of Mt. Sequoyah in years past were developed with density greater than RSF-4. It can be done. Is it the highest and best use of that particular challenged topography? I don't think so. I currently live on top of the mountain. I have walked or drove all of this land at one time or the other over the past few years. Why you see so many lines moving and jaggging and pieces and pods, that was taken into consideration when we came before you asking for our zoning and entitlement process. Things we put forward are, in my eyes as a land planner and a developer, realistic. Those yields would have the least impact on the land mass. Could we do more? Yes. Could we have done more in Phase I with four unit per acre density? Yes. At this point I think my actions speak louder than anything that I can say at this microphone tonight. The intended use of this farm is to create the next regional mountainous area called Mountain Ranch which will be equivalent to what we have seen develop on Rockwood Trail and the other mountainous areas off of Hwy. 45. The density that we are requesting approval for is less than what was constructed and developed and built in the areas that I just referenced. We feel like we have a good handle on it. I'm the one that lives on top of the mountain in the middle of it. I see some of my other neighbors here that didn't have a comment. They may be asking themselves about density and things of that nature but the city right now doesn't have an RSF-2.2 or RSF-1.5, RSF-2.6. I am simply asking for approval on the tools that I was given to work with and as you can see, we have developed 2.2 units per acre in a RSF-4 zone. I think my actions speak louder than my words. That is our intent in the mountainous area we can get two units per acre. Do I think for a minute that we are going to have two units per acre in those RSF-2? No. I think it is more like one unit per every acre or acre and a half ground. Do we have the tools for me to articulate that under our current zoning classifications? I would say not. The request is for greater density with an understanding that lesser density will come through. I am only working within the guidelines of what I have to work with right now.

Vaught: Several of these phases will be years off unless the developer hurries. Hopefully our hillside ordinance won't take as long as these developments and we will have some more definition for the developer in designing it

also as we pass these things on what will happen on some of these steep portions of the property. I guess my hope is that the hillside ordinance is only months away instead of years.

Ostner: I hope so too. On that note, for Mr. Whitaker, with the current draft proposal, how might that affect some of these steep areas or are you even familiar with that?

Whitaker: I have not seen the draft of that.

Trumbo: I don't believe there is one.

Terminella: I can speak to the issues that jump out as far as my concerns. A lot of the things that Design Workshop, Staff, and the group have championed in the preliminary draft ordinance, a lot of things that make sense to me are moving the utilities to the front of the lots along street ways so we don't disturb the canopy on the backside of lots for simply putting in a line. The other things that make a great deal of sense to me is the street widths of some streets in mountainous areas. The thing that probably made the most sense to me is variations in setbacks in steep areas to where we are not creating the need to go in and bench and remove a bunch of canopy and basically layer the mountain. There are all sorts of bad examples around town of that. I am encouraged about the process we have made on that. I have been there at every meeting. It is very important to me. I think I'm one of less than a handful of people that own 500 acres of mountainous area within the city limits of Fayetteville, Arkansas. Growing up on that side of town, playing on Markham Mountain, running around on this farm, riding motorcycles, living on Hall Street, going up and down Cleveland, Sang, Hassle, I have vested interest. I am a green developer. This is where I've grown up. Those things are important to me and I feel like I've been in and out of several committees and several failed attempts to get something past but I'm as encouraged as I've ever been with the collective spirit of trying to get something that works both for the city, the residents and the development community. I think we are well on the way. In saying that, I think there are steps being made that would minimize the impact on our mountainous area and they are making sense to me.

Ostner: I appreciate that.

MOTION:

Myres: I move that we approve the remaining items which I believe are D, F, G, H, I and J.

Trumbo: I will second.

Ostner: Is there discussion?

Anthes: I believe your intent for this property is right. Don't question that I'm questioning that. I am just having some trouble with the order these things are happening in. We are all saying that this makes sense with the hillside ordinance, this makes sense with what we are working on. This makes sense if we do it this way. But we don't have that ordinance in place yet. We don't have the thing that protects this hundreds of acres of hillside. I don't know what phases you plan to do first and next and next. I know what you are doing first, that is the one that went through a few weeks ago. Can you tell us about the timing of this and what is the urgency to rezone these last sections right now before we have the other pending legislation with the PZD ordinance and the hillside ordinance that could inform us about how these would develop on this other piece of property? I am going back to a rather heart felt and passionate plea to us this evening by the previous land owner and I'm trying to figure out how we can go through this in a way that is beneficial to everybody.

Terminella: I'm the gentleman that collectively purchased the land with the intent of bringing it through this body as a PZD. Due to certain things well out of my control that couldn't happen. I spent the time, I've spent the money, I've spent one year of debt servicing 474 acres sitting in neutral trying to navigate through these ordinances that the city has. In order for me, Tom Terminella, the Reserve, LLC, the Ranch, to move the project forward there have been certain things asked of me to cost share one mile of road running east and west, to cost share ½ mile road running north and south. To take into consideration of giving the land that I purchased, some six acres, for right of way for all of this to happen. I understand that. I do it in seven different cities, three counties and some 2,000 acres of it in this community. The thing that I have to have as the guy that put it on the line, the risk taker, the gambler, the poker player, whatever you want to call me, I have to have the reassurance that I can do what I need to do to recapture my investment. I can't stand here tonight and agree to anything other than absolute understanding of my entitlement and zoning. Others are asking me to pay, wait, give, donate, pay for certain things in order for all to benefit from. I simply ask this body and the Council to give me my entitled powers, zoning, and the entitlements that I need to move my project forward. It has to be a two way street. There has to be consideration given for development. A developer has to have consideration for the city. I have went beyond the call of duty sitting in neutral patiently and working with staff and others to achieve the things that needed to be achieved in order to move it forward. I don't feel good about leaving this body with part of my business done. I have agreed to do certain things with the city and the school district so they can achieve their goals. I would simply ask for the Planning Commission and the City Council to give me the same consideration. Give me the reassurance that I

can land plan and develop my property in a civilly, educated manner and without the entitlement I can't do that. Without an understanding of the land use I can't do that. I have got almost all of the pieces but not all of them. That is how I would speak to that.

Allen: Regarding the same thing that Commissioner Anthes said, you have almost all of the pieces and we, as Planners, have concerns about what might happen in the future. That is the point of Planning. I am not clear as to why you need it all when we feel like we are close to being able to have an ordinance in place that would make us feel better about development of the last part of the property.

Terminella: The last part of the property is RSF-2 and the flat spots on top of the mountain are RSF-4. I have backed away from density and vertical development and things of that nature that was offensive to staff on the top of that mountain. In R-A, what it is currently zoned, I can do one house per acre right now as it exists. Most of this area is topography challenged, it has one way in and out. There is going to have to be some concessions and understanding of street widths. I don't look at it as offensive. I look at it as something other. I concur with Mr. Vaught that leaving it R-A and the things that could be put on it at that level of zoning would be far more worrisome to me than an RSF-2 or RSF-4 zone. That is me personally. Why is it so important for me to understand it? There again, I am the fellow that has been here for a year in neutral wanting an understanding that I can do something with my farm other than run cattle on it. It has become real expensive to run cattle on that amount of real estate and sit in neutral. I am not willing to come back and back and listen to public abuse and under educated people slam me in this public forum that don't fully understand the development plan. I have taken that up with the city staff, with the mayor of the city, I have taken it up with the folks that have all the vested interest in making this happen out there. I simply want the reassurance that I can develop my farm. There are others in the city that want the reassurance that I am going to cost share, donate, build, pay for and give right of way and money to make that happen. I don't think it is an unreasonable request for everybody to win. That is the number one rule in my company is everybody wins that is involved in a particular deal. That is all that I am asking for. I don't think any of it is intrusive. I don't think there is zoning that is offensive on top of that mountain that would destroy view shed. If I could make it pretty and put all the streets in there and there was 100% certainty I would. In order to do that on 474 acres, that is a large amount of civil investment for no reassurance on anything. I have been there and done that and this is what our city staff, the Planning Department, asked me to do. If I can't get an RPZD approved because of the technical aspects of the ordinance, then bring it through in pods of your intended zoning. That is what I have done. Through this whole process I wouldn't say it has gone as smooth as silk but it hasn't been

burlap. I have done what I said I would do. I am continuing to do that. The main issue comes down to me being able to fund and finance the project. I can fund and finance a piece of real estate that has the entitlement and the zoning in place. I can't fund and finance a 474 acre cattle farm with no reassurance in this city that I can do anything other than put one house per acre or run cattle on it. That is why I'm asking. That is why it is important. As far as the evolution of development, where it goes from A to B Jill, it starts on Persimmon and goes south through multiple phases over eight years. Absorption will tell us the real pace and time line on this thing. Based on what I'm seeing out in the valley and other subdivisions, the absorption rate of Mr. Sloan and Mr. Nock and Mr. Walker and the other folks that are developing within that community, the absorption is good. The demand is there. The need is there. What is lacking is infrastructure. I've spent weeks, days, months and hours talking with others planning and collectively gifting paying for and cost sharing in order for this city to achieve it's goals. I don't think it is out of the realm of reality for me to leave here tonight knowing what I can do with my property. That is why I'm asking for the mass zonings. That is how it got here. I wish I could've got my PZD approved a year ago and then I wouldn't be here tonight. I'm not willing to go back through this another dozen times. As you can tell, the young lady that was here earlier was one of seven heirs. The other heirs talk to me on a daily basis and still run cattle on my farm. I am disappointed, I'm saddened by her behavior. It is what it is and hopefully you are seeing everything.

Allen: Did you talk with her and the other neighbors that were unhappy?

Terminella: She is not a neighbor. She owns no real estate on the west side of I-540 to my knowledge. I have talked to three neighbors that adjoined some portion of the farm this week that have called me. I noticed my neighbors that live closest to me are here in this chamber tonight that had no comment. I noticed the ones that had no financial risks or responsibility or reliability were speaking the loudest. The one that I just wrote the check to. It is real easy to sit on the side lines and call somebody a land harvester or butcher when it is not you. I don't go for that for a New York minute. I don't believe anything that was conveyed. She obviously does not have a clear understanding of the evolution and the responsibilities that the city put on me to get to this point. I did agree to buy it as a PZD but staff is recommending that the way that I need to bring this through because of the massive size is individual zoned pods then that is what I'm going to do. I'm going to go along with what staff recommends and hopefully get approval based on their recommendations. Here again, I'm not going to beat the drum. It is what it is. Those are my reasons. That is why I requested it. That is why we switched gears after I was tabled on a simple 21 acre rezone for Phase I. At that point I made the decision if we are going to participate at the level that the city wants us to on cost shares

and miles of roads; I simply need my reassurance before I voluntarily gift my land and participate in these cost shares. I respectfully ask you to move it forward and approve my request tonight and I'll be here until the questions stop coming.

Allen: Can you calculate how many acres we have already rezoned?

Ostner: Remaining if D, J, H, I, J, and G. I believe we have more than ½ remaining.

Pate: You have 235 acres remaining.

Ostner: We have rezoned 140 and another 235 are before me.

Anthes: I think Commissioner Allen and I were getting at the same thing. With what Mr. Terminella was saying about his timing, he is going to work from Persimmon and go down over eight years. We just looked at 120+ acres that exactly fit that development pattern that we recommended approval on to City Council. When I look at the rest of the acreage I'm excited about the fact that the way you have zoned this is not just by putting a grid on the map but by looking at the topography. I have a GIS generated file here that shows your parcels laid over slopes and it is very clear that you have been responsive to that in laying this out and I really appreciate that. It is not just a bubble diagram. That is why my comment was I believe your intent is exactly right. We are just haggling because we would love to have this in a logical order where we know that these things that we know are in the pipeline are in place. I think that that will happen with the development taking the amount of time that it will to develop the property. I just know that we have looked at other pieces of property and said we are going to hold off on that because there is not development pressure on that parcel right now that says we have to take action before something else that is in the pipeline is finished. I appreciate that the clearing on the top of the mountain is being held down. I am comfortable with G in that respect and I'm probably pretty comfortable with the rest of it as RSF-2. I just wish we had a different order that these things were happening in. Staff, with the RSF-2 in what you have seen coming through with the ordinances, are you thinking that these are highly compatible?

Pate: Very much so. I guess in response, there has been a lot of discussion about the hillside ordinance tonight, but the initial impression from Council when we first looked at anything about hillside protection was to downzone the multi-family to something conducive to hillside development which would be RSF-2 or RSF-4. That is what we initially looked at doing is rezoning to exactly what this rezoning request is requesting. Clearing an entire ½ acre is not the intent of this developer. It

would not meet our grading ordinances currently that we have. We have grading and tree preservation ordinances in place right now for RSF-2 zoning districts without the hillside development that I feel would protect that hillside whether we had that ordinance in place now or in two years. Those are things that we took into consideration when we made our recommendation. The fact that the city is going to look at development of this very nature on Mt. Sequoyah which is zoned at a much higher density and would not be appropriate. That is the very reason that we had the discussion about the RMF-24 on the hillside tonight. There are ways that you could do that inappropriately very easily. The density proposed at two units per acre is extremely low density for this Commission and Council to look at. To my knowledge, there has only been one or two other rezoning requests to RSF-2 since it was created two years. It is just not utilized very often. The ½ acre lot and 100' width minimum are inherently things that protect that property. We expect Mr. Terminella would comply with our city ordinances just as anyone else would. That is what it came down to in our evaluation of that RSF-2 on the hillside.

Ostner: I would like to agree with Mr. Pate. I am on the hillside taskforce and need to stick up for it. I think I am sticking up for the hillside taskforce because one of the first things that we deliberated was let's rezone the hillsides to RSF-2. In fact, we talked about RSF-4 which is twice what he is proposing. That proposal is off the table. Right off the bat, one of the quickest methods to protect hillsides he is already addressing. All of the design regulations that we are getting embroiled in with the hillside taskforce are important and I would love them to be implemented. But the number one method municipalities have used to protect hillsides is density. The second thing is that big tracts of land are good. They are scary and it is hard to look at it and think about it at once but our services can look at that and say we know what is going to happen for the next eight years. We do have a budget to promote to the Council because we know that this will happen and when. I do think this is good and would like to see this happen tonight.

Clark: I call the question.

Roll Call: Upon the completion of roll call the motion to call the question was approved by a vote of 9-0-0.

Ostner: There is no more discussion and the motion was to forward the rest of the items and was seconded. Call the roll.

Roll Call: Upon the completion of roll call the motion to recommend approval of the remaining rezoning request for Mountain Ranch was approved by a vote of 9-0-0.

Planning Commission

June 27, 2005

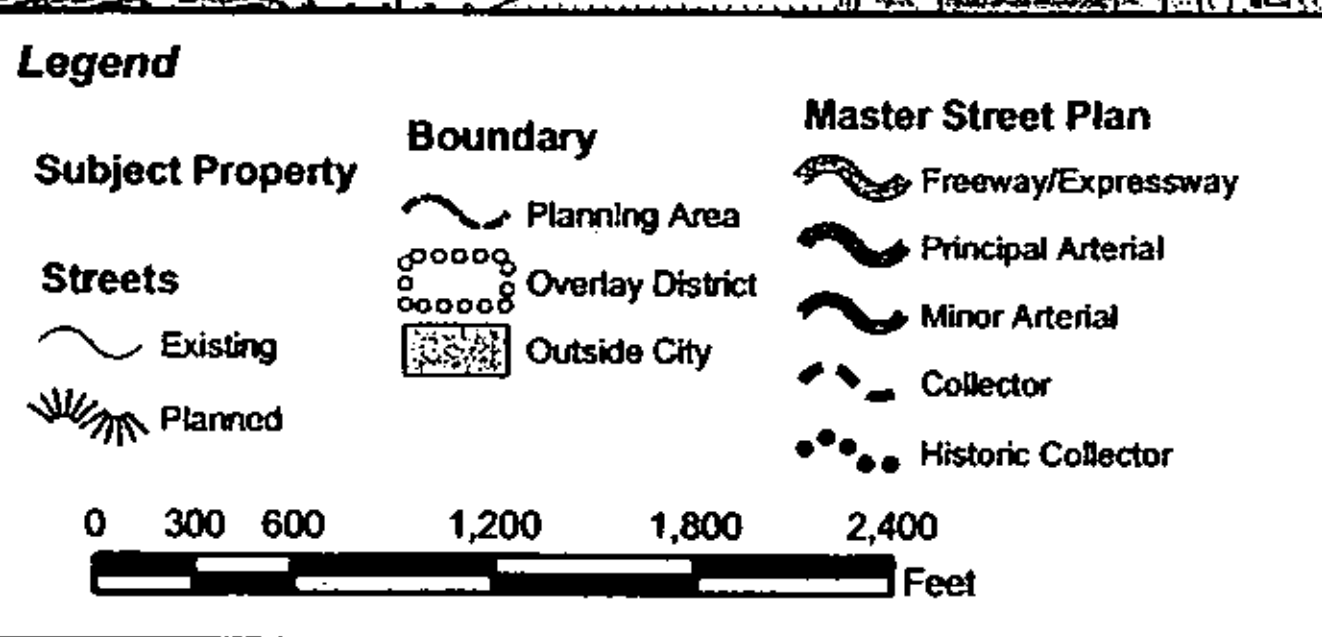
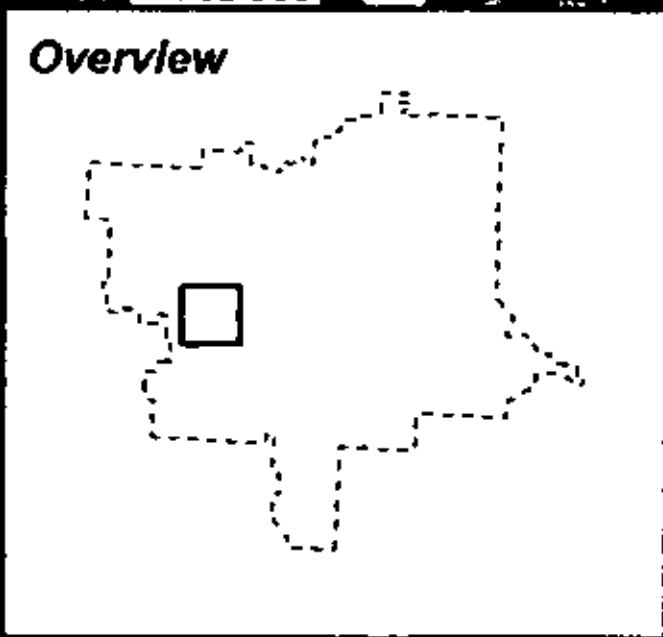
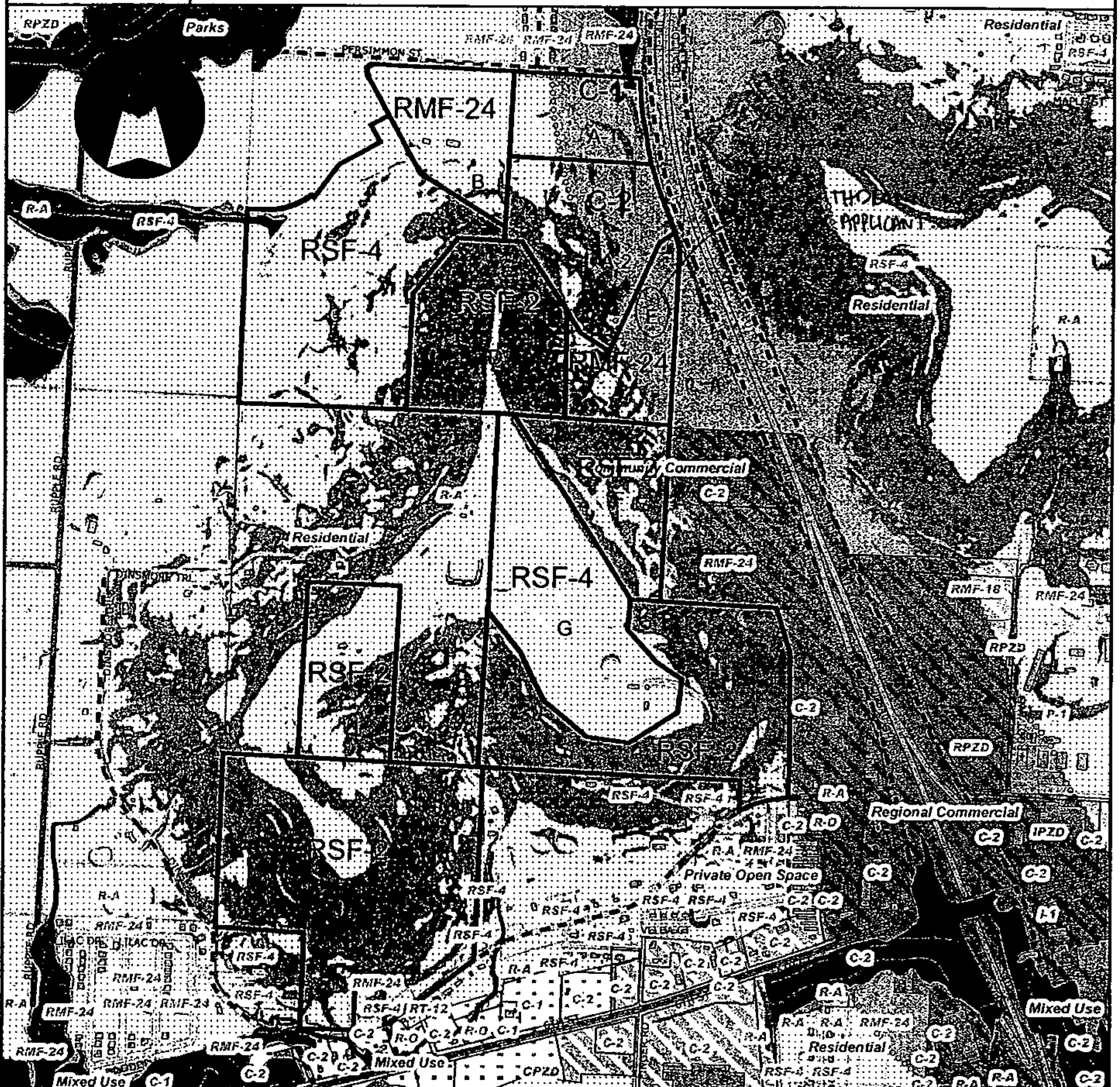
Page 74

Thomas: The motion carries.

C. 8
RZN 06-2028
Mountain Ranch C-2
Page 53 of 72

MOUNTAIN RANCH
Future Land Use

MOUNTAIN RANCH



ORDINANCE NO. 4855

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CODE IN ORDER TO IMPLEMENT HILLSIDE/HILLTOP PRESERVATION AND PROTECTION, ESTABLISH A HILLSIDE/HILLTOP OVERLAY DISTRICT ZONING BOUNDARY AND MAP, AND APPROVING THE HILLSIDE/HILLTOP OVERLAY DISTRICT BEST MANAGEMENT PRACTICES MANUAL AS A GUIDE

WHEREAS, the City of Fayetteville values its unique Hillside/Hilltops; and,

WHEREAS, the City of Fayetteville is committed to having appropriate and desirable development occur on the Hillside/Hilltops; and,

WHEREAS, developments that are compatible and harmonious with the Hillside/Hilltops, do not have a negative effect upon the City; and,

WHEREAS, the Hillside/Hilltop Best Management Practices Manual will provide a guide for the development on the City's Hillside/Hilltops; and

WHEREAS, the City of Fayetteville determines that its Hillside/Hilltops need additional protection and preservation enhancements to lessen grading, drainage, and stormwater problems and to preserve the Fayetteville's beauty, clean water and clean air.

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

Section 1. That Chapter 161: Zoning Districts is amended by inserting Hillside/Hilltop Overlay District regulations in sections; § 161.07 RSF-4, § 161.13 RMF - 24, and § 161.15 R-O, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.



Section 2. That Chapter 167: Tree Preservation and Protection is amended to include Hillside/Hilltop Overlay District regulations in section § 167.04, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 3. That Chapter 169: Physical Alteration of Land is amended to include Hillside/Hilltop Overlay District regulations in sections § 169.02, § 169.03, § 169.04, § 169.06, § 169.07, § 169.08, a copy of which marked Exhibit "C" is attached hereto and made a part hereof.

Section 4. That Chapter 170: Stormwater Management, Drainage and Erosion Control is amended to include Hillside/Hilltop Overlay District regulations in sections § 170.01, § 170.36, § 170.05, § 170.10, a copy of which marked Exhibit "D" is attached hereto and made a part hereof.

Section 5. That Chapter 172: Parking and Loading is amended to include Hillside/Hilltop Overlay District regulations in section § 172.04, a copy of which marked Exhibit "E" is attached hereto and made a part hereof.

Section 6. That Chapter 173: Building Regulations is amended to include Hillside/Hilltop Overlay District regulations in section § 173.02, a copy of which is marked Exhibit "F" is attached hereto and made a part hereof.

Section 7. That Chapter 151: Definitions are amended by adding the following definitions:

Cistern. (Stormwater) Roof water management devices that provide retention storage volume in above or underground storage tanks. They are typically used for water supply. Cisterns are generally larger than rain barrels, with some underground cisterns having the capacity of 10,000 gallons. On-lot storage with later reuse of stormwater also provides an opportunity for water conservation and the possibility of reducing water utility costs.

Green Roof. (Stormwater) Elevated roof surfaces that are entirely covered with a thin soil and vegetation layer.

Height. (Hillside/Hilltop Overlay District) Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

Hillside/Hilltop Development Manual. (Zoning) The best management practices document that supplements the Hillside/Hilltop Overlay District and illustrates desirable Hillside/Hilltop development practices.

Hillside/Hilltop Overlay District. (Zoning) Lands located within the City that generally have slopes in excess of 15 %. The Hillside/Hilltop Overlay District is shown on the City's official zoning map. The development regulations in the Hillside/Hilltop Overlay District supercede the underlying zoning district.

Hilltop. Hillside/Hilltop Overlay District) Land located above the Hilltop line which contains less than 15% slope and is completely surrounded by Hillside/Hilltop < 15% slope.

Historic grade. (Zoning) The natural grade of the land prior to any development.

Parking Pad. (Hillside/Hilltop Overlay District) Parking areas for multi-family residential, residential office, and commercial use in the Hillside/Hilltop Overlay District.

Permeable Pavers. (Stormwater) A solid surface that allows natural drainage and migration of water into the earth by permitting water to drain through the surface itself or through spaces between the pavers.

Plinth. (Hillside/Hilltop Overlay District) A foundation or base, usually on the upslope side of the Hillside/Hilltop, on which a house is located. Most often a plinth is constructed by erecting a retaining wall at the street with backfill creating a level building pad for the home.

Rain Barrels. (Stormwater) A stormwater containment vessel that captures runoff generated by impervious surfaces such as roofs. Rain barrels usually include a hole at the top to allow water to flow in, a sealed lid, an overflow pipe or hose, and a spigot to dispense water. By holding and reusing rainwater, rain barrels reduce stormwater runoff from sites and conserve potable water.

Rain Garden. (Stormwater) an attractive landscaping feature planted with perennial native plants. It is a bowl-shaped garden, designed to absorb stormwater run-off from impervious surfaces such as roofs and parking lots.

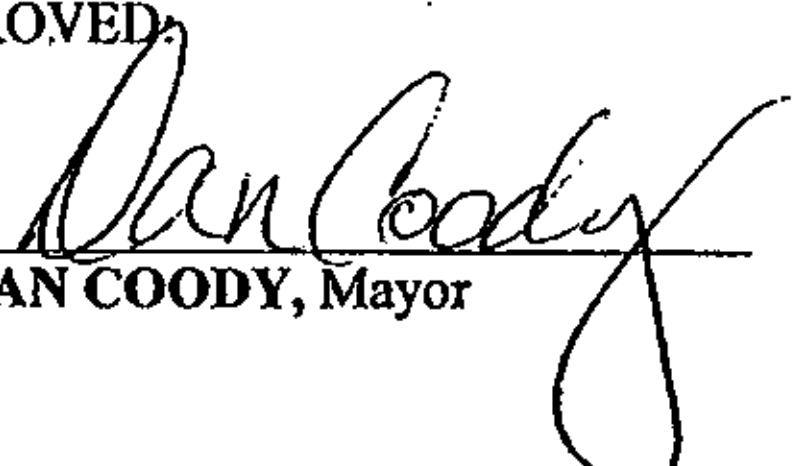
Section 8. That the Hillside/Hilltop map attached as Exhibit "G" is adopted to delineate the Hillside/Hilltop Overlay District in which the regulations found in the preceding Exhibits are applicable.

Section 9. Severability. In accordance with § 150.13 of the U.D.C., if any section, part, word or phrase of this ordinance shall be determined to be invalid, illegal or unconstitutional, such decision shall not affect the validity of the remaining provisions, section, and language of this ordinance.

PASSED and APPROVED this 18th day of April, 2006.

APPROVED

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



EXHIBIT "A"

To be inserted in Chapter 161: Zoning Regulations:

§161.07. District RSF-4, Residential Single Family – 4 units/acre.

(D) Bulk and area regulations.

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside/Hilltop Overlay District Lot minimum width	60 ft.	70 ft.
Hillside/Hilltop Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) Setback requirements. Single Family Dwellings

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HHOD Front	HHOD Side	HHOD Rear
15 ft.	5 ft.	15 ft.

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

(E) Setback requirements.

Front	Side	Rear
25 ft.	8 ft.	25 ft.
HHOD Single Family Front	HHOD Single Family Side	HHOD Single Family Rear
15 ft.	8 ft.	15 ft.
HHOD Two Family Front	HHOD Two Family Side	HHOD Two Family Rear
15 ft.	8 ft.	15 ft.

HHOD Two Family Front	HHOD Two Family Side	HHOD Two Family Rear
15 ft.	8 ft.	15 ft.
HHOD Multi Family Front	HHOD Multi Family Side	HHOD Multi Family Rear
15 ft.	8 ft.	15 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet except for the HHOD. Within the HHOD the maximum building height is 60 ft. as measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure, allowing 3 stories on the uphill side and 4 stories on the downhill side of the building. If the building is placed on a graded pad, then the height of the building is reduced, allowing a maximum of 3 stories as measured from the historic grade, pre-development

§161.15 District R-O, Residential Office

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside/Hilltop Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside/Hilltop Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside/Hilltop Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts except for the HHOD, provided, however, that any building that exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet. In the Hillside/Hilltop Overlay District the maximum building height is 60 ft. as measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure allowing 3 stories on the uphill side and 4 stories on the downhill side of the building. If the building is placed on a

graded pad then the height of the building is reduced allowing a maximum of 3 stories as measured from the historic grade, pre-development.

EXHIBIT "B"

To be inserted in Chapter 167: Tree Preservation and Protection:

§167.04 Tree Preservation And Protection During Development

(A) *Applicability.* The provisions of this section shall apply to proposed subdivisions, and large scale developments required by other chapters of the Unified Development Code to go through the city's permitting process. Persons seeking to build one single-family dwelling unit, or duplex, are specifically exempt from the provisions of this section except when the land is located within the Hillside/Hilltop Overlay District; then all the provisions of this ordinance shall apply. 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.

(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.

(C) *Canopy area.* In all new Subdivisions, Large Scale Developments, lands located within the Hillside/Hilltop Overlay District, Industrial and Commercial Developments, and all other improvements listed above, 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.

Table 1 Minimum Canopy Requirements

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
RA, Residential Agriculture	25%
RSF-.5, Single-family Residential – One Half Unit per Acre	25%
RSF-1, Single-family Residential – One Unit per Acre	25%

RSF-2, Single-family Residential – Two Units per Acre	20%
RSF-4, Single-family Residential – Four Units per Acre	25%
RSF-7, Single-family Residential – Seven Units per Acre	20%
R-O, Residential –Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-family Residential – Six Units per Acre	20%
RMF-12, Multi-family Residential – Twelve Units per Acre	20%
RMF-18, Multi-family Residential – Eighteen Units per Acre	20%
RMF-24, Multi-family Residential – Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential – Forty Units per Acre	20%
C-1, Neighborhood Commercial	20%
C-2, Thoroughfare Commercial	15%
C-3, Central Business Commercial	15%
C-4, Downtown	10%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%

All residential zoning districts and C-1 districts within the Hillside/Hilltop Overlay District shall have their percent minimum canopy requirements increased by 5% to a total requirement of either 30% or 25%.

(F) Tree Preservation Requirements for Proposed Residential and Non-Residential Subdivisions.

(3) *Hillside/Hilltop Overlay District.* Individual parcels or lots located within the Hillside/Hilltop Overlay District boundary shall submit an abbreviated tree preservation plan as set forth in 167.04 (H)(3) indicating the location of the structure and the preservation of the minimum tree canopy requirement.

(a) Developers shall have the option of doing cluster development, such as a PZD,

open space instead of being required on the individual lots. The open space set aside during cluster development shall be placed in a permanent easement or land trust with all future development rights removed from the property.

(I) Request for on-site mitigation

(c) Tree removal due to the grading work done to create tie backs for roads in the Hillside/Hilltop Overlay District shall be mitigated by reforesting a minimum of 25% of the tie backs pursuant to the landscape manual.

(d) Planting trees in non-canopy areas in order to reach the minimum percent canopy requirements for the site is not allowed in the Hillside/Hilltop Overlay District.

(L) Continuing preservation and protection under approved tree preservation plans.

(1) In order to ensure that an applicant's heirs, successors, assigns, or any subsequent purchasers of the subject property are put on notice as to the existence and extent of an approved tree preservation plan, tree preservation areas shall be clearly depicted on the easement plats for large scale developments and the final plats for nonresidential subdivisions. This shall be accompanied by a narrative statement describing the nature of the protection afforded, and bearing the signature of the landscape administrator. Lots in residential subdivisions are expressly exempt from these requirements. If it is impractical to include the actual depiction of the canopy to be preserved on the easement plat, or final plat itself, a note cross referencing an accompanying document shall suffice.

EXHIBIT "C"

To be inserted in Chapter 169: Physical Alteration of Land:

§169.02 General Requirements

- (D) *Restoration.* Land shall be revegetated and restored as close as practically possible to its original conditions so far as to minimize runoff and erosion. are concerned. Previously forested areas shall follow the City's Landscape Manual for mitigation of forested areas.

§169.03 Permits Required/Exceptions

- (A) *Permit required.* No grading, filling, excavation, or land alteration of any kind shall take place without first obtaining:

- (4) A grading permit is required by the City for any development occurring within the Hillside/Hilltop Overlay District boundaries. If a parcel of land is divided by the Hillside/Hilltop Overlay District boundary, then only that portion of land lying within the boundary is subject to the requirements of this chapter.

- (B) *Exceptions where no grading permit is required.* Grading permits are not required for the following:

- (4) *Single-family/duplex.* Construction of one single-family residence, or duplex not located within the 100 year flood plain, the Hillside/Hilltop Overlay District, or on a slope 15 % or greater.

- (C) *Grading permit application and approval.* No grading permit shall be issued until the grading plan, endorsed by a registered architect, landscape architect, or engineer, is approved by the City Engineer. A separate permit shall be required for each site; it may cover both excavations and fills. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03., coordination with Chapter 167. Tree Preservation and Protection is required.

§169.04 Minimal Erosion Control Requirements

If exempt under §169.02, If exempt under 169.03, a grading permit is not required. However, exempt as well as non-exempt activities shall be subject to the following minimal erosion and sedimentation control measures.

- (A) *Natural vegetation.* The potential for soil loss shall be minimized by retaining natural vegetation wherever possible. Development in the Hillside/Hilltop Overlay District should

comply with the recommendations of the Hillside/Hilltop Best Management Practices Manual with regard to the retention of natural vegetation on Hillside/Hilltops.

- (B) *Stabilization.* All graded and otherwise disturbed areas shall be stabilized within 15 days immediately after the grading or disturbance has been completed. Stabilization methods such as baled straw, filter fabric, ditch checks, diversion ditches, brush barriers, sediment basins, matting, mulches, grasses and groundcover shall be used.
- (D) *Excavation material.* Excavation material shall not be deposited in or so near streams and other stormwater drainage systems where it may be washed downstream by high water or runoff. All excavation material shall be stabilized immediately with erosion control measures.

§169.06. Land Alteration Requirements

(C) *Cut or fill slopes.*

- (1) *Finish grade.* Cut or fill slopes shall have a finish grade no steeper than 33% (3.00 horizontal to 1 vertical), when approved by the City Engineer. Land located within the Hillside/Hilltop Overlay District may have cut or fill slopes with a finish grade no steeper than 50% (2.00 horizontal to 1 vertical) with approval of the City Engineer.
- (4) *Setback requirements.* The following setback requirements shall be reviewed by the City Engineer for purposes of assessing safety, stability, and drainage problems: (See illustrations). Setbacks from property lines may be filled or cut if a grading plan is submitted jointly by the owners of both properties.
- (e) *Public rights-of-way.* Cuts adjacent to public rights-of-way shall be setback a minimum of 25 feet, excluding driveways or access roads.
- (F) *Erosion and sedimentation control.*
- (c) *15% to 20% grade:* The slope shall be covered with landscape fabric and planted with groundcover as set forth in (b) above.
- (d) *More than 20% grade:* Any finish grade over 20% shall be stabilized with retaining walls, cribbing, terraces, landscape fabric, vegetation, or riprap. If riprap is used the slope's stability and erodibility must be equivalent to or better than its predevelopment state.
- (e) *Hillside/Hilltop Overlay District.* Revegetation of lands within the Hillside/Hilltop Overlay District shall be planted immediately after the physical alteration of the land with complete and uniform ground cover. Sod, erosion fabric, herbaceous groundcover (in wooded areas), and/or a hydroseed with warm season grasses is required. Re-vegetation requirements shall be met prior to the issuance of a certificate of occupancy. Cut and Fill tie-back slopes shall be re-vegetated with appropriate tree species to achieve a minimum of 25% tree canopy at maturity.

In §169.06 (G) *Undisturbed land requirements*. After the table add the following:

In the development of Large Scale Developments and lots within the Hillside Overlay District, the minimum amount of undisturbed land shall equal the percent minimum tree canopy pursuant to §167.04 (C). Planned Zoning Districts shall show undisturbed areas, but may be approved by the City Council with lesser percentages of undisturbed area than required above.

§169.07 Grading Plan Specifications

(A) *Grading plan*. The applicant shall prepare a grading plan as follows:

- (2) *Existing grades*. Existing grades shall be shown with dashed line contours and proposed grades with solid line contours. Grading plans shall be required to show both the proposed grade and the undisturbed area. Contour intervals shall be a maximum of two feet. Spot elevations shall be indicated.

§169.08 Grading Plan Submittal

(B) *Final grading plan*. No subdivision may be finalized, nor large scale development plat approved before a final grading plan has been submitted to the City Engineer and approved. The final grading plan and the final plat of land located within the Hillside/Hilltop Overlay District shall have the following plat note stating: "Property and lot owners of lands located within the Hillside/Hilltop Overlay District are strongly encouraged to have a geotechnical analysis of their property prior to any development in order to identify potential geological hazards and determine appropriate techniques to mitigate against hazards such as the swelling and shrinking of soils, slumping, Hillside/Hilltop creep, and seeps."

EXHIBIT "D"

To be inserted in Chapter 170 Stormwater Management, Drainage and Erosion Control:

§170.01 Intent

(A) *Intent.* It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:

(5) Requiring that erosion control measures are implemented and function on a lot-by-lot basis.

(6) Encouraging the use of storm water best management practices to reduce runoff. These measures would include permeable pavers, green roofs, rain gardens, cisterns and rain barrels for irrigation use.

§170.05 Permit Application

A storm water management, drainage, and erosion control permit application shall be submitted to the City Engineer using appropriate forms as provided by the city. An applicant may apply jointly for contiguous parcels or subdivisions as long as the erosion control measures are in place until project completion. A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual*, Section 1, Drainage Report Checklist. Submittal information and plans shall include, but not be limited to the following:

§170.10 Environmentally Sensitive Mitigation Methods for Storm Water Management

(A) Environmentally conscious measures to reduce the amount of storm water generated by development shall be encouraged, especially in the Hillside/Hilltop Overlay District. Methods may include but, are not limited to, rain gardens, permeable pavement, green roofs, cisterns for the collection and redistribution of storm water for irrigating purposes, etc.

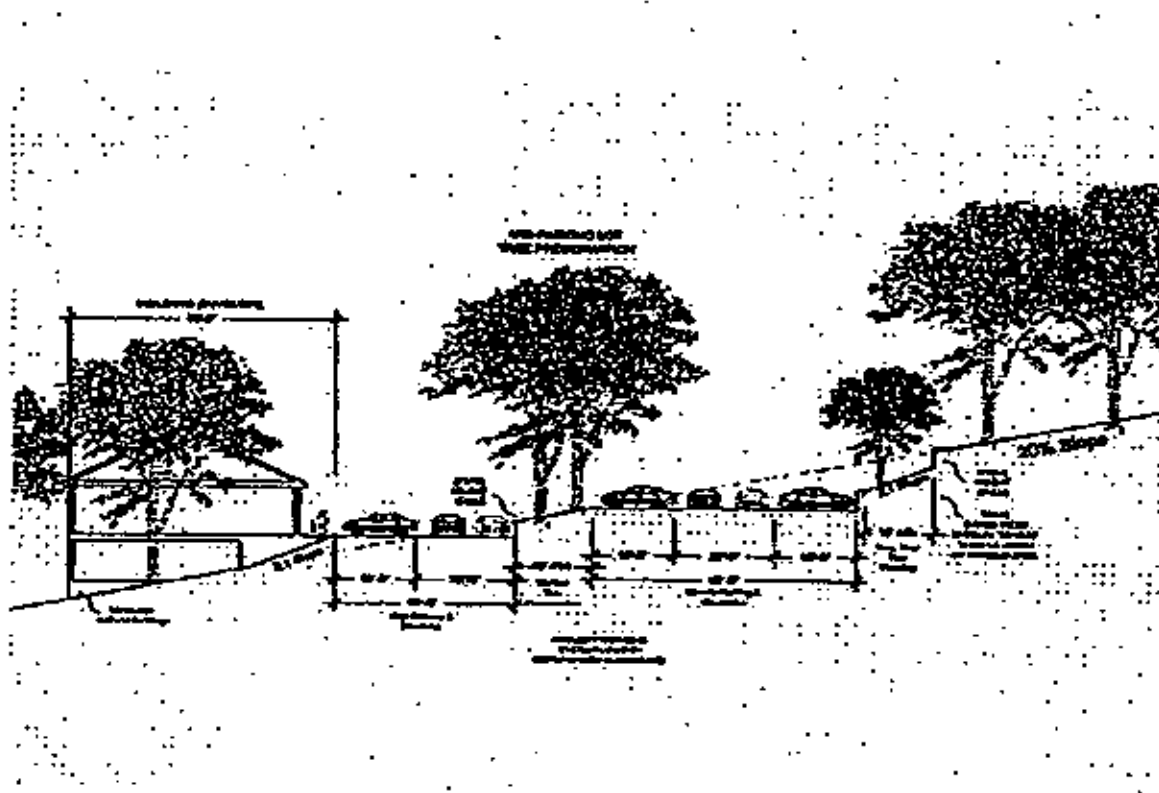
EXHIBIT "E"

To be inserted in Chapter 172: Parking and Loading:

§172.04 Parking Lot Design Standards Error! Bookmark not defined.

(E). Hillside/Hilltop Overlay District.

(1) Separation of Parking Pads in Multi-Family, Office, and Commercial Development. Parking pads shall be separated by a minimum undisturbed area of 15 feet between parking pads. Streets and access drives are permitted to cross this undisturbed area.



(2) Cut and Fill Slopes. Parking pads should be encouraged to utilize cut slopes with retaining walls to minimize disturbance.

(3) Maximum number of spaces per parking lot for multi-family and office use. Parking pads shall have a maximum of 30 spaces per pad.

(4) Parking lot location with multi-family and office structures. When the building is located adjacent to the street the parking shall be located in the rear. When the multi-family structure is located off of the street, a minimum of 35' of undisturbed area shall separate the building from the street.

(5) Developers of multi-family, office, and commercial uses in the Hillside/Hilltop Overlay District are encouraged to refer to the Hillside/Hilltop Best Management Practices Manual for guidance and direction in the design of their project.

EXHIBIT "F"

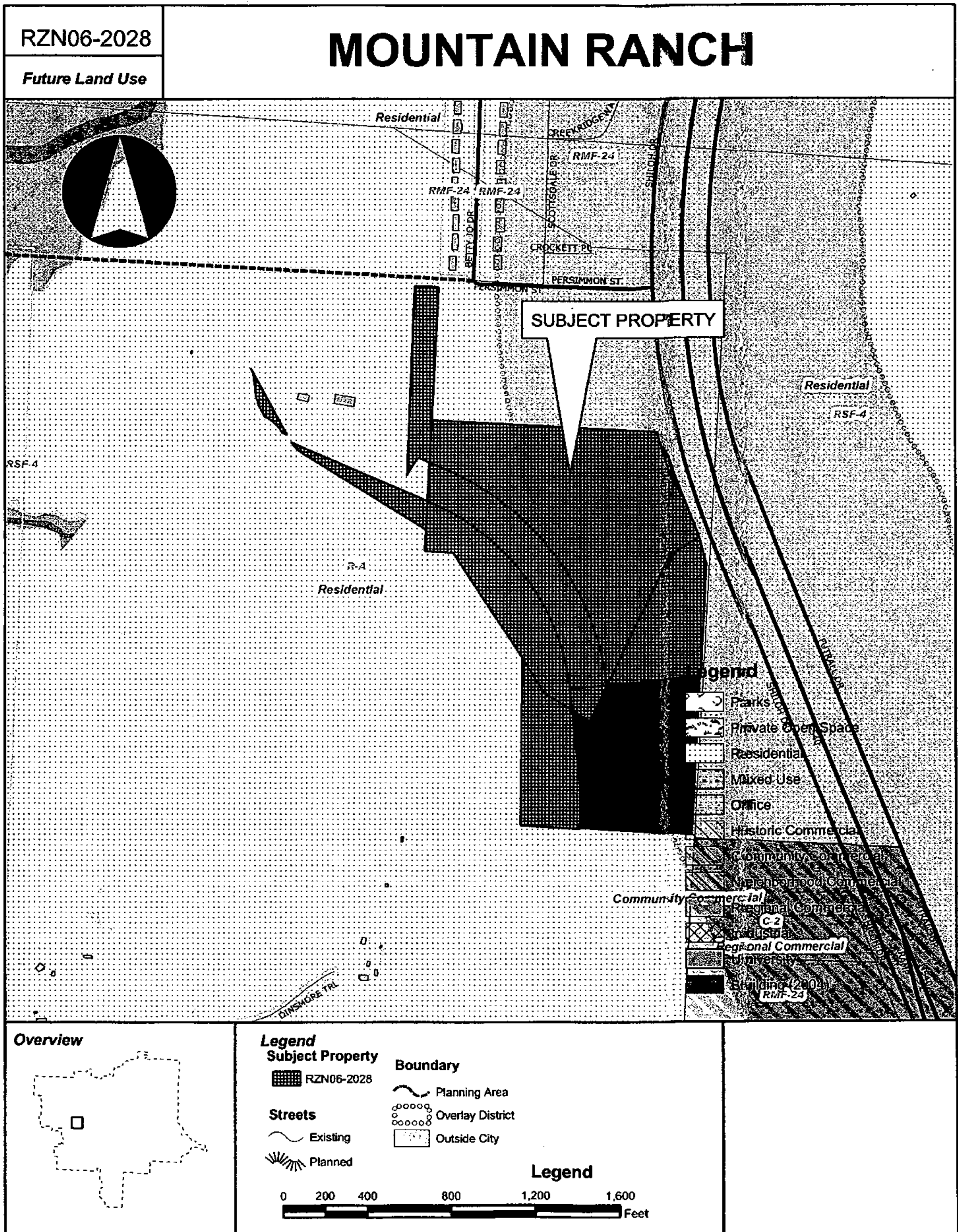
To be inserted in section 173: Building Regulations:

§173.02 Fire Prevention Code/Building Code

(B) Amendments, additions, and deletions to the Building Code. The Building Code shall be amended as follows:

(2) Footings and Foundations.

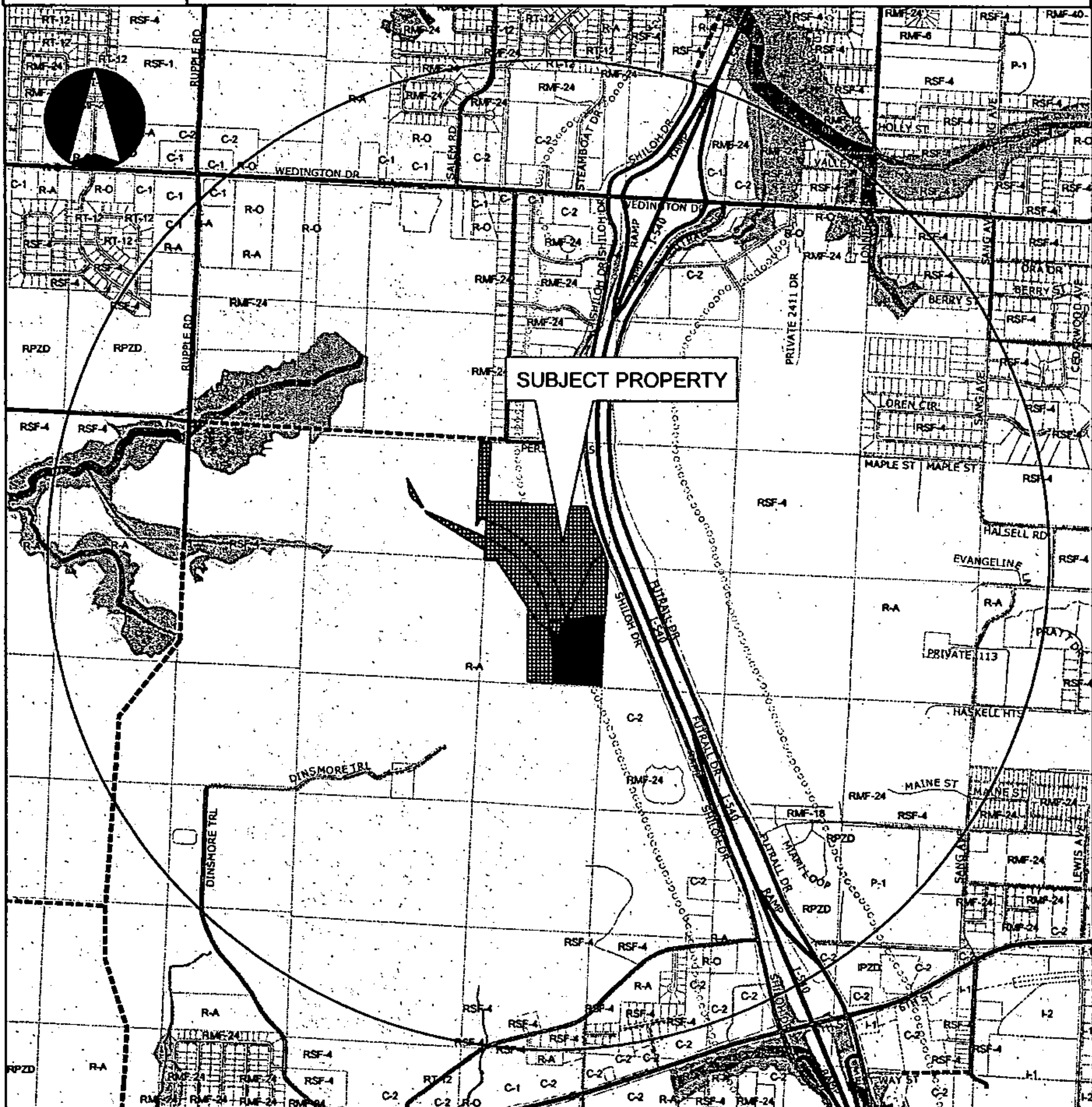
Building, structures, and parts thereof shall be designed and constructed in accordance with strength design, load and resistance factor design, allowable stress design, empirical design, or conventional construction methods, as permitted by the applicable material chapters of the Arkansas Fire Prevention Code and this section.



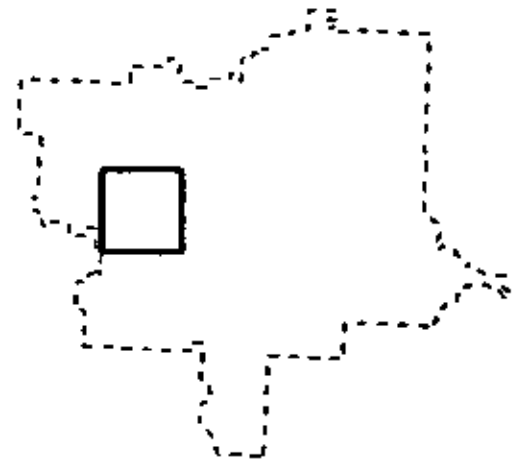
RZN06-2028

One Mile View

MOUNTAIN RANCH



Overview



Legend

Subject Property
 RZN06-2028

Boundary

Planning Area
 Overlay District
 Outside City

Legend

0 0.125 0.25

0.5

0.75

1

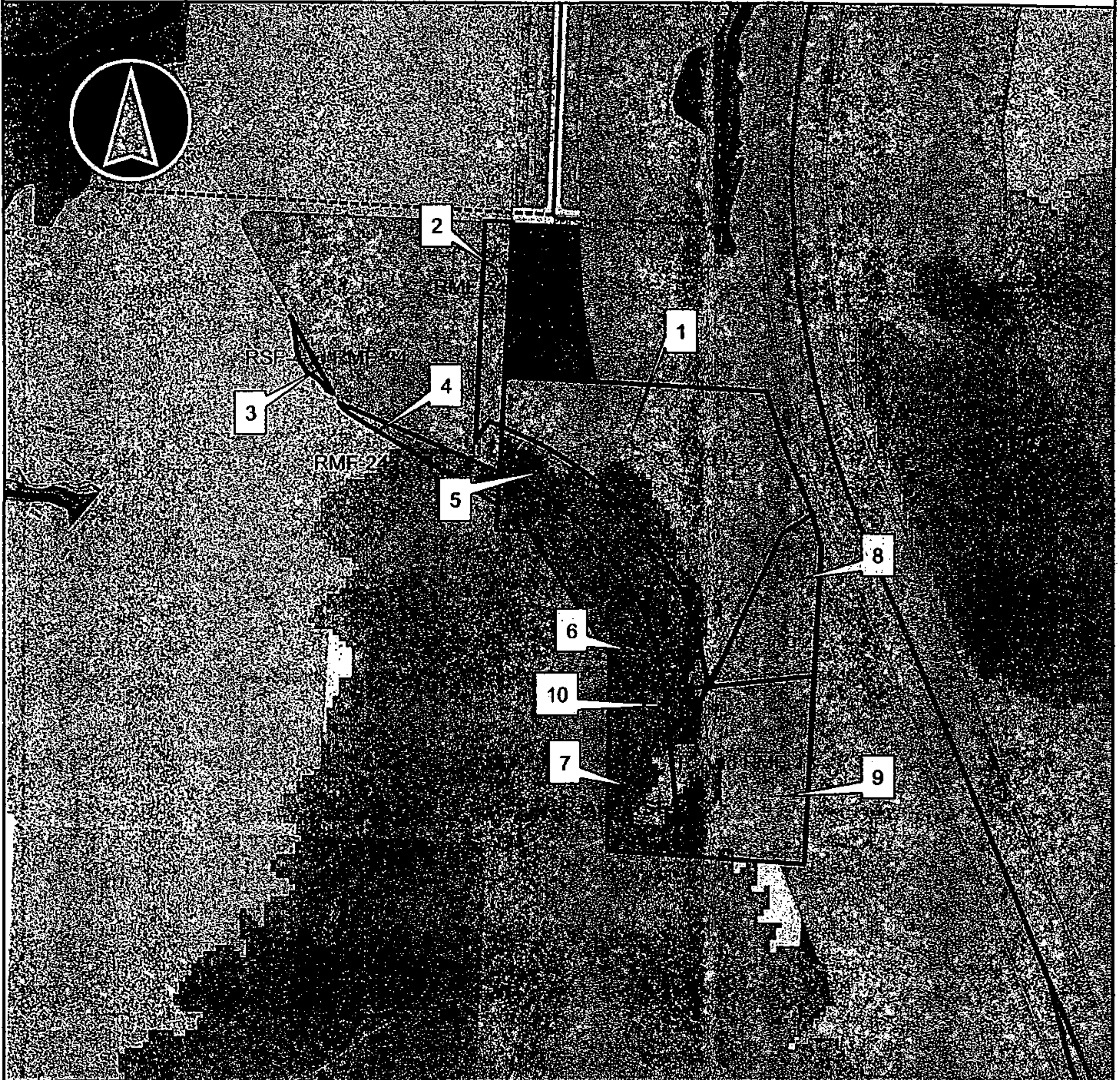
Miles

2006

RZN06-2028

Close Up View

MOUNTAIN RANCH



Overview

0 200 400 800 1,200 1,600 Feet

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

C. 9
RZN 06-2028
Mountain Ranch RMF-24
Page 1 of 6

2

6-Jun-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2028 (Mountain Ranch, 440): Submitted by Tom Terminella for property located west of I-540 and South of Betty Jo Drive. The property is zoned RSF-4, Residential Single Family, 4 units per acre and contains approximately 0.28 acres. The request is to rezone the subject property to RMF-24, Residential Multi-Family, 24 units per acre.

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

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

5-15-06
Date

Previous Ordinance or Resolution # n/a

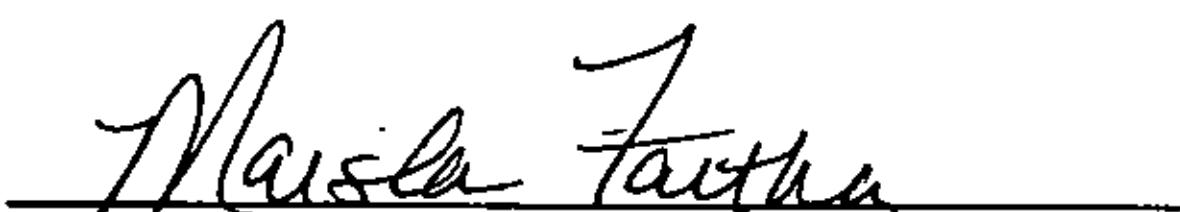
Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

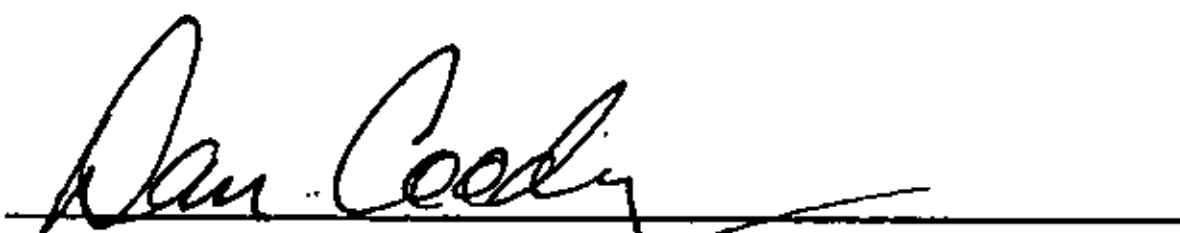
5-16-06
Date

Received in City Clerk's Office



Finance and Internal Service Director

5/19/06
Date

Received in Mayor's Office



Mayor

5/23/06
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: May 11, 2006

Subject: Rezoning for Mountain Ranch (RZN 06-2028) – RMF-24

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 0.28 acres of property from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-family 24 units per acre.

BACKGROUND

The subject property contains a small area of approximately 0.28 acres, located at the southwest intersection of Persimmon Street and Betty Jo Drive. This area is identified as **Parcel No. 3** in the attached maps.

This request, along with several others in the subject zoning requests associated with RZN 06-2028 for Mountain Ranch, is simply an adjustment of a zoning boundary, based on more in-depth analysis and evaluation of street layout and design for this site. The original concept plans proposed a street along the eastern side of the existing mountain; however, more detailed analysis of the location of the primary streets that will traverse the mountain, connecting to Persimmon, Shiloh and Old Farmington in the future has been completed, and it has been determined that moving the north/south street further east, down the hill, is more appropriate than originally anticipated for the terrain and future development. Subsequently, placing the future street in this location would split existing zoning districts, placing some commercial districts and multi-family districts farther up the mountain than desirable, and causing incompatible adjacent land uses. The submitted rezoning requests continue to support the originally presented masterplan, containing a mixture of uses and density based on access availability and existing topography, among other factors.

DISCUSSION

This item was heard at the regular Planning Commission on May ²²22, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2028 FOR APPROXIMATELY 0.28 ACRES, LOCATED WEST OF I-540 AND SOUTH OF BETTY JO DRIVE, FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.

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

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

From RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

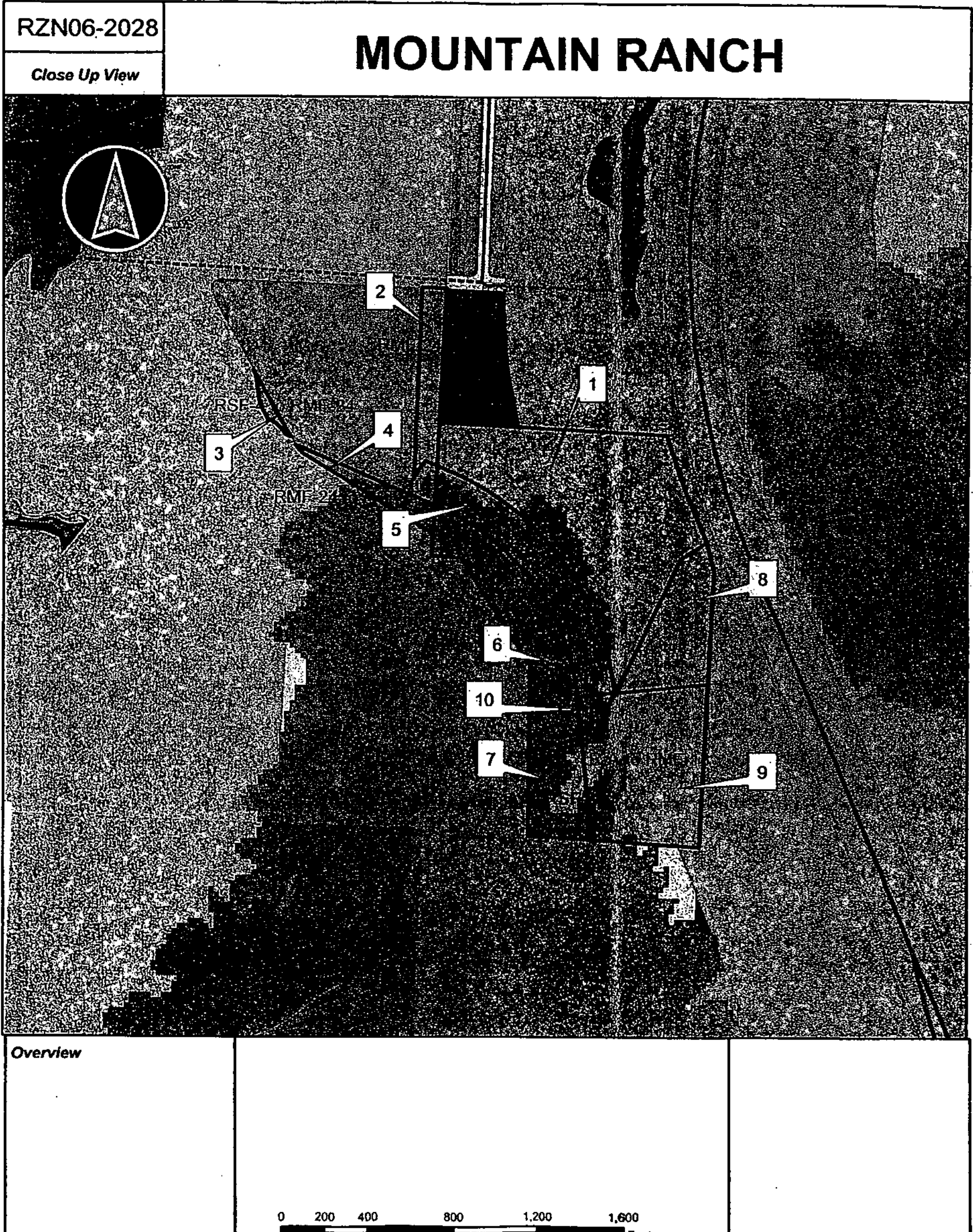
By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2028 PARCEL 3

LEGAL DESCRIPTION: (PARCEL "3" RSF-4 TO RMF-24)

PART OF THE NW1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID NW1/4, NW1/4 THENCE SOUTH 766.11 FEET, THENCE WEST 727.56 FEET TO THE P.O.B., THENCE N66°22'59"W 26.29 FEET, THENCE ALONG A CURVE TO THE LEFT 114.99 FEET, SAID CURVE HAVING A RADIUS OF 175.00 FEET AND A CHORD BEARING OF N47°33'32"W 112.93 FEET, THENCE N28°44'06"W 65.01 FEET, THENCE ALONG A CURVE TO THE LEFT 34.95 FEET, SAID CURVE HAVING A RADIUS OF 89.00 FEET AND A CHORD BEARING OF N17°29'06"W 34.73 FEET, THENCE N06°14'06"W 92.63 FEET, THENCE ALONG A CURVE TO THE LEFT 53.01 FEET, SAID CURVE HAVING A RADIUS OF 135.00 FEET AND A CHORD BEARING OF N17°29'06"W 52.67 FEET, THENCE S28°44'06"E 364.02 FEET TO THE P.O.B.; CONTAINING 0.28 ACRES MORE OR LESS.

2006



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

(3)

6-Jun-06

City Council Meeting Date

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2028 (Mountain Ranch, 440): Submitted by Tom Terminella for property located west of I-540 and South of Betty Jo Drive. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre and contains approximately 1.17 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director

5-18-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

5-16-06

Original Contract Number: n/a


Finance and Internal Service Director

8/19/06
Date

Received in City Clerk's Office

ENTERED

5/16/06


Mayor

5/23/06
Date

Received in Mayor's Office

ENTERED

5/16/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^X

Date: May 11, 2006

Subject: Rezoning for Mountain Ranch (RZN 06-2028) – RSF-4

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 1.17 acres of property from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

The subject property contains an area of approximately 1.17 acres, located southwest of the intersection of Persimmon Street and Betty Jo Drive. This area is identified as **Parcel No. 4** in the attached maps.

This request, along with several others in the subject zoning requests associated with RZN 06-2028 for Mountain Ranch, is simply an adjustment of a zoning boundary, based on more in-depth analysis and evaluation of street layout and design for this site. The original concept plans proposed a street along the eastern side of the existing mountain; however, more detailed analysis of the location of the primary streets that will traverse the mountain, connecting to Persimmon, Shiloh and Old Farmington in the future has been completed, and it has been determined that moving the north/south street further east, down the hill, is more appropriate than originally anticipated for the terrain and future development. Subsequently, placing the future street in this location would split existing zoning districts, placing some commercial districts and multi-family districts farther up the mountain than desirable, and causing incompatible adjacent land uses. The submitted rezoning requests continue to support the originally presented masterplan, containing a mixture of uses and density based on access availability and existing topography, among other factors.

DISCUSSION

This item was heard at the regular Planning Commission on May ²²22, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2028 FOR
APPROXIMATELY 1.17 ACRES, LOCATED
WEST OF I-540 AND SOUTH OF BETTY JO
DRIVE, FROM RMF-24, RESIDENTIAL MULTI-
FAMILY, 24 UNITS PER ACRE TO RSF-4,
RESIDENTIAL SINGLE FAMILY, 4 UNITS PER
ACRE.

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

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

From RMF-24, Residential Multi-Family, 24 units
per acre to RSF-4, Residential Single Family, 4
units per acre, as shown on Exhibit "A" attached
hereto and made a part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2028 PARCEL 4

LEGAL DESCRIPTION: (PARCEL "4" RMF-24 TO RSF-4)

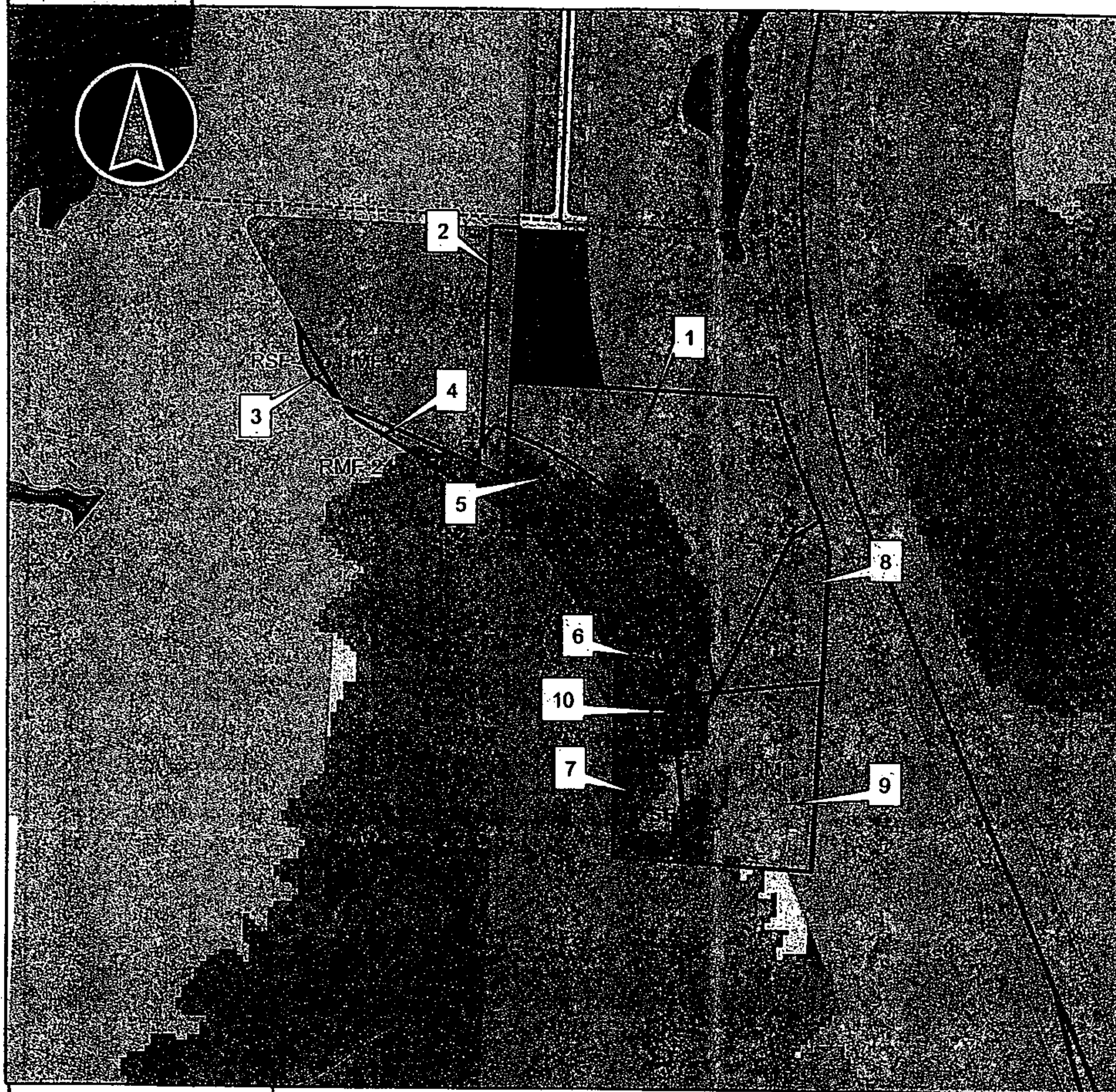
PART OF THE NW1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID NW1/4, NW1/4 THENCE SOUTH 1086.12 FEET, THENCE WEST 58.06 FEET TO THE P.O.B., THENCE S03°03'43"W 137.09 FEET, THENCE N57°55'22"W 694.62 FEET, THENCE ALONG A CURVE TO THE LEFT 74.65 FEET, SAID CURVE HAVING A RADIUS OF 175.00 FEET AND A CHORD BEARING N45°42'11"W 74.08 FEET, THENCE S66°22'59"E 708.24 FEET TO THE P.O.B.; CONTAINING 1.17 ACRES MORE OR LESS.

2006

RZN06-2028

Close Up View

MOUNTAIN RANCH



Overview

0 200 400 800 1,200 1,600 Feet

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

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6-Jun-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2028 (Mountain Ranch, 440): Submitted by Tom Terminella for property located west of I-540 and South of Betty Jo Drive. The property is zoned C-1, Neighborhood Commercial and contains approximately 5.28 acres. The request is to rezone the subject property to RMF-12, Residential Multi-Family, 12 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

 S-15-06
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

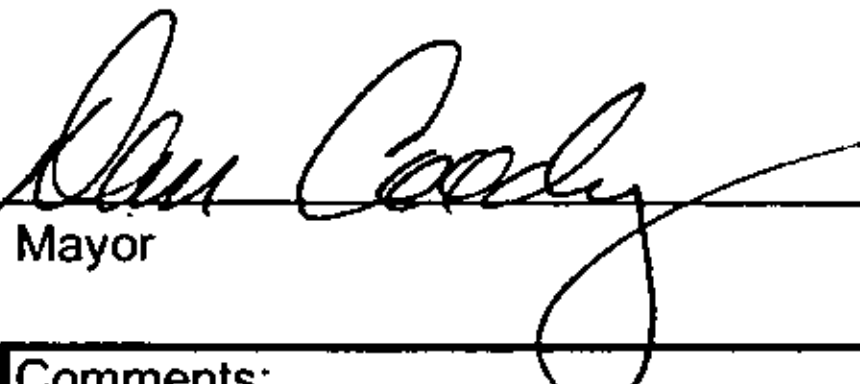
Original Contract Number: n/a

 5-16-06
City Attorney Date

Received in City Clerk's Office


 5/19/06
Finance and Internal Service Director Date

Received in Mayor's Office


 5/23/06
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^X

Date: May 11, 2006

Subject: Rezoning for Mountain Ranch (RZN 06-2028) – RMF-12

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 5.28 acres of property from C-1, Neighborhood Commercial to RMF-12, Residential Multi-family, 12 units per acre.

BACKGROUND

The subject property contains an area of approximately 5.28 acres, located west of Shiloh Drive and south of Persimmon Street. This area is identified as Parcel No. 5 in the attached maps.

Parcel No. 5, currently zoned C-1, is proposed to be downzoned to RMF-12 as a transition between the future residential single family uses to the west and the commercial zoning to the east. This will allow for a compatible transition to occur between potentially incompatible future uses. The result of moving the proposed street to the east, down the hill, causes the existing C-1 zoning to be split, with part of the commercial zoning downhill of the street and part of it uphill. This request would create a transitional area between the commercial uses and low density single family uses. Finding also that with the adoption of the Hillside/Hilltop Overlay District by the City Council, the applicant and staff have the ability to work together to both preserve and protect sensitive hillside while allowing for development at appropriate densities by clustering and encouraging reduced setbacks and land disturbance, staff and the Planning Commission support this request.

DISCUSSION

This item was heard at the regular Planning Commission on May ²⁰22, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2028 FOR
APPROXIMATELY 5.28 ACRES, LOCATED
WEST OF I-540 AND SOUTH OF BETTY JO
DRIVE, FROM C-1, NEIGHBORHOOD
COMMERCIAL TO RMF-12, RESIDENTIAL
MULTI-FAMILY, 12 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby
changed as follows:
From C-1, Neighborhood Commercial to RMF-12,
Residential Multi-Family, 12 units per acre, as
shown on Exhibit "A" attached hereto and made a
part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2028 PARCEL 5

LEGAL DESCRIPTION: (PARCEL "5" C-1 TO RMF-12)

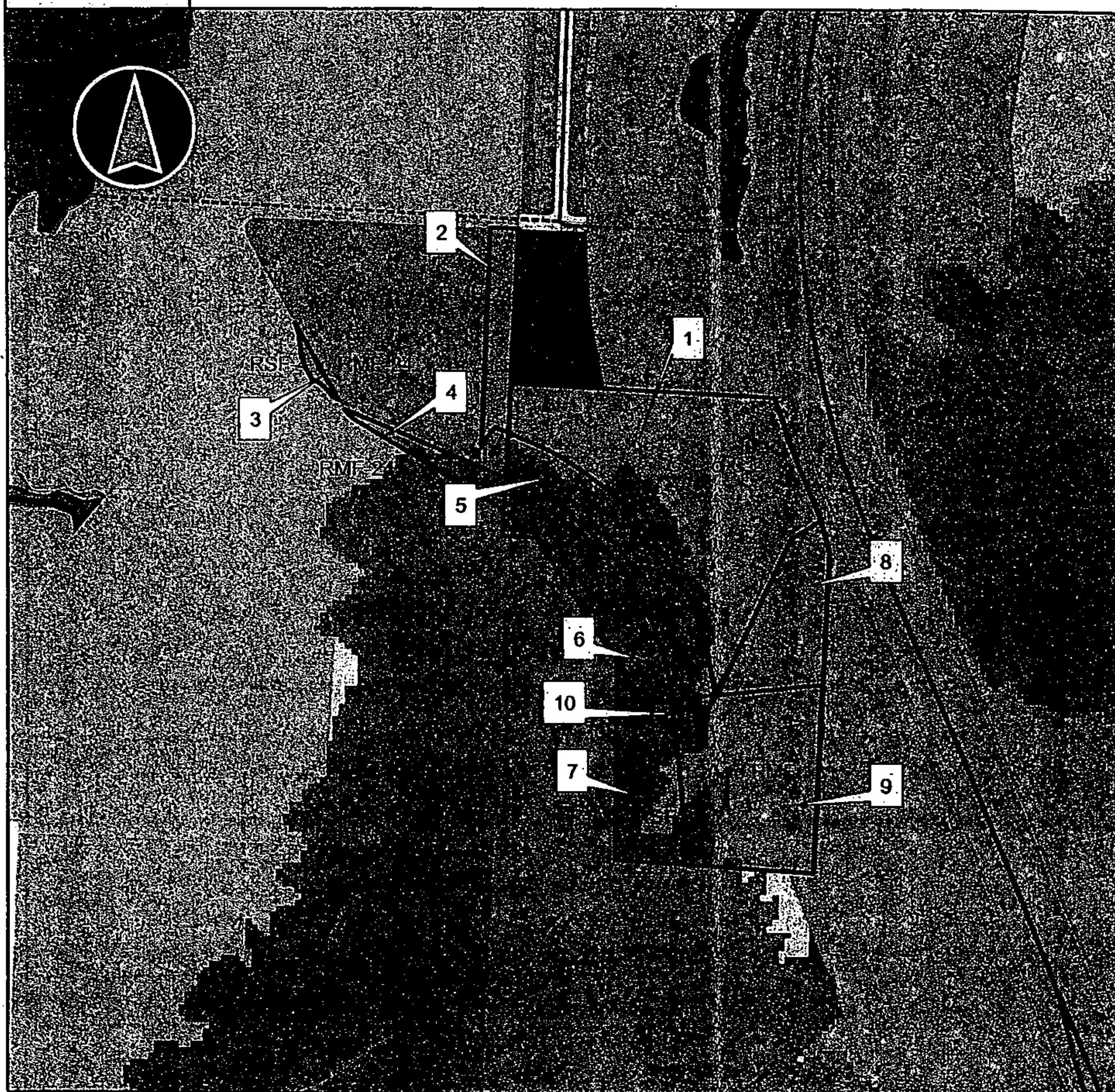
PART OF THE NE1/4, NW1/4 AND PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE SOUTH 584.66 FEET, THENCE WEST 455.85 FEET TO THE P.O.B., THENCE S84°09'20"W 175.00 FEET, THENCE ALONG A CURVE TO THE LEFT 1162.25 FEET, SAID CURVE HAVING A RADIUS OF 1100.00 FEET AND A CHORD BEARING OF N36°06'50"W 1108.94 FEET, THENCE N66°22'59"W 26.64 FEET, THENCE N03°03'43"E 186.90 FEET, THENCE S66°22'59"E 92.26 FEET, THENCE ALONG A CURVE TO THE RIGHT 1347.16 FEET AND A CHORD BEARING OF S36°06'50"E 1285.36 FEET TO THE P.O.B.; CONTAINING 5.28 ACRES MORE OR LESS.

2006

RZN06-2028

Close Up View

MOUNTAIN RANCH



Overview

0 200 400 800 1,200 1,600 Feet

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

5

6-Jun-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2028 (Mountain Ranch, 440): Submitted by Tom Terminella for property located west of I-540 and South of Betty Jo Drive. The property is zoned C-1, Neighborhood Commercial and R-A, Residential-Agricultural and contains approximately 8.91 acres. The request is to rezone the subject property to RSF-2, Residential Single Family, 2 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director
5-15-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney
5-16-06
Date

Original Contract Number: n/a


Finance and Internal Service Director
5/19/06
Date

Received in City Clerk's Office
ENTERED
5/16/06
LB


Mayor
5/23/06
Date

Received in Mayor's Office
ENTERED
5/16/06
TH

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: May 11, 2006

Subject: Rezoning for Mountain Ranch (RZN 06-2028) – RSF-2

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 8.91 acres of property from C-1, Neighborhood Commercial and R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.

BACKGROUND

The subject property contains an area of approximately 8.91 acres in two parcels, located west of Shiloh Drive and south of Persimmon Street. This area is identified as **Parcel Nos. 6 and 7** in the attached maps.

This request is also an adjustment of a zoning boundary, based on the location of a future street. The commercial zoning designation is undesirable west of the proposed street, further into the Hillside/Hilltop Overlay District, and downzoning this property would allow for a low density, low-impact use of this property. The portion of property currently zoned R-A was requested to be rezoned to RMF-24 in 2005. Staff did not support this request, due to the concerns with rezoning properties to a multi-family use on hillsides while the City Council and staff was actively involved in discussing ordinances that would protect hillsides. Since that time, the request has been modified to the present request for RSF-2 in this area, which staff and the Planning Commission support.

DISCUSSION

This item was heard at the regular Planning Commission on May 22, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2028 FOR
APPROXIMATELY 8.91 ACRES, LOCATED
WEST OF I-540 AND SOUTH OF BETTY JO
DRIVE, FROM C-1, NEIGHBORHOOD
COMMERCIAL AND R-A, RESIDENTIAL-
AGRICULTURAL TO RSF-2, RESIDENTIAL
SINGLE FAMILY, 2 UNITS PER ACRE.

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

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

From C-1, Neighborhood Commercial and R-A,
Residential-Agricultural to RSF-2, Residential
Single Family, 2 units per acre, as shown on Exhibit
"A" attached hereto and made a part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2028 PARCEL 6

LEGAL DESCRIPTION: (PARCEL "6" C-1 TO RSF-2)

PART OF THE NE1/4, NW1/4 AND PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE SOUTH 704.86 FEET, THENCE WEST 619.46 FEET TO THE P.O.B., THENCE N57°34'28"W 159.99 FEET, THENCE N30°57'07"W 193.36 FEET, THENCE N33°01'44"W 609.07 FEET, THENCE N87°13'34"W 135.02 FEET, THENCE N03°03'43"E 240.47 FEET, THENCE S66°22'59"E 26.64 FEET, THENCE ALONG A CURVE TO THE RIGHT 1162.25 FEET, SAID CURVE HAVING A RADIUS OF 1100.00 FEET AND A CHORD BEARING OF S36°06'50"E 1108.94 FEET, THENCE S05°50'40"E 102.92 FEET TO THE P.O.B.; CONTAINING 4.92 ACRES MORE OR LESS.

LEGAL DESCRIPTION: (PARCEL "7" R-A TO RSF-2)

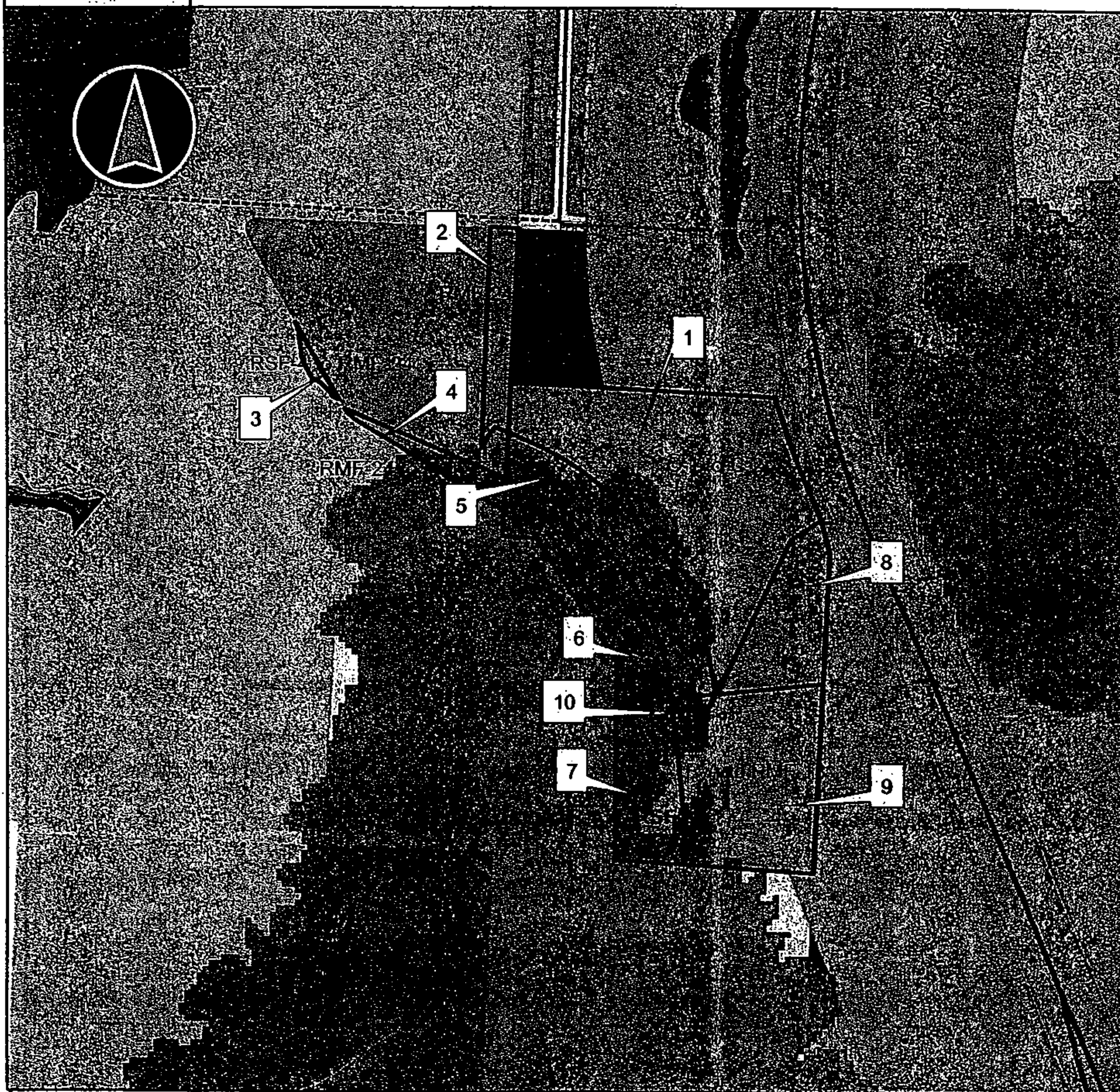
PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE SOUTH 1279.00 FEET, THENCE WEST 587.09 FEET TO THE P.O.B., THENCE N06°59'24"E 5.77 FEET, THENCE ALONG A CURVE TO THE LEFT 224.01 FEET, SAID CURVE HAVING A RADIUS OF 1000.00 FEET AND A CHORD BEARING OF N00°34'22"E 223.54 FEET, THENCE N05°50'40"W 346.68 FEET, THENCE N57°34'28"W 159.99 FEET, THENCE N30°57'07"W 193.36 FEET, THENCE S00°41'16"W 807.80 FEET, THENCE S86°16'26"E 277.14 FEET TO THE P.O.B., CONTAINING 3.99 ACRES MORE OR LESS.

2006

RZN06-2028

Close Up View

MOUNTAIN RANCH



Overview

0 200 400 800 1,200 1,600 Feet

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

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6-Jun-06

City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2028 (Mountain Ranch, 440): Submitted by Tom Terminella for property located west of I-540 and South of Betty Jo Drive. The property is zoned C-1, Neighborhood Commercial and R-A, Residential-Agricultural and contains approximately 9.16 acres. The request is to rezone the subject property to RMF-18, Residential Multi-Family, 18 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director
5-15-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney
5-16-06
Date

Original Contract Number: n/a

[Signature]
Finance and Internal Service Director
5/18/06
Date

Received in City Clerk's Office
ENTERED
5/16/06

[Signature]
Mayor
5/23/06
Date

Received in Mayor's Office
ENTERED
5/16/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: May 11, 2006

Subject: Rezoning for Mountain Ranch (RZN 06-2028) – RMF-18

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 9.16 acres of property from C-1, Neighborhood Commercial and R-A, Residential Agricultural to RMF-18, Residential Multi-family 18 units per acre.

BACKGROUND

The subject property contains two areas of approximately 9.16 acres, located west of Shiloh Drive. This area is identified as **Parcel Nos. 9 and 10** in the attached maps.

In 2005, the applicant requested this area, along with additional acreage, to be rezoned to RMF-24 as part of a large, 350-acre rezoning request with multiple zoning districts. Finding this area to be within areas of hillside, and without an ordinance to protect those hillsides (though it was being discussed by the Planning Commission and City Council at that time), staff could not support the request and recommended denial. Staff recommended the boundary of the RMF-24 be moved to the east; a use greater in intensity than single family is appropriate adjacent to I-540 and Collector Streets, and staff was in support of an increased density, but not on the hillside without knowledge of protection. The applicant subsequently withdrew the request at the Planning Commission. With the current request, staff has the knowledge that the Hillside/Hilltop Overlay District has been adopted, which will allow the applicant and staff to have the ability to work together to both preserve and protect sensitive hillside while allowing for development at appropriate densities by clustering and encouraging reduced setbacks and land disturbance. Additionally, the boundary has been moved to the east as originally requested, and the density requested has been reduced from 24 to 18 units per acre.

DISCUSSION

This item was heard at the regular Planning Commission on May ⁰⁸~~22~~, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2028 FOR
APPROXIMATELY 9.16 ACRES, LOCATED
WEST OF I-540 AND SOUTH OF BETTY JO
DRIVE, FROM C-1, NEIGHBORHOOD
COMMERCIAL AND R-A, RESIDENTIAL-
AGRICULTURAL TO RMF-18, RESIDENTIAL
MULTI-FAMILY, 18 UNITS PER ACRE.

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

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

From C-1, Neighborhood Commercial and R-A,
Residential-Agricultural to RMF-18, Residential
Multi-Family, 18 units per acre, as shown on
Exhibit "A" attached hereto and made a part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2028 PARCEL 9 and 10

LEGAL DESCRIPTION :(PARCEL "9" R-A TO RMF-18)

PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE SOUTH 540.86 FEET, THENCE WEST 28.03 FEET TO THE P.O.B., THENCE S02°57'58"W 772.98 FEET, THENCE N86°16'26"W 520.17 FEET, THENCE N06°59'24"E 5.77 FEET, THENCE ALONG A CURVE TO THE LEFT 224.01 FEET, SAID CURVE HAVING A RADIUS OF 1000.00 FEET AND A CHORD BEARING OF N00°34'22"E 223.54 FEET, THENCE N05°50'40"W 346.68 FEET, THENCE S57°34'28"E 99.83 FEET, THENCE N25°05'22"E 192.07 FEET, THENCE N84°09'20"E 427.95 FEET TO THE P.O.B.; CONTAINING 8.73 ACRES MORE OR LESS.

LEGAL DESCRIPTION: (PARCEL "10" C-1 TO RMF-18)

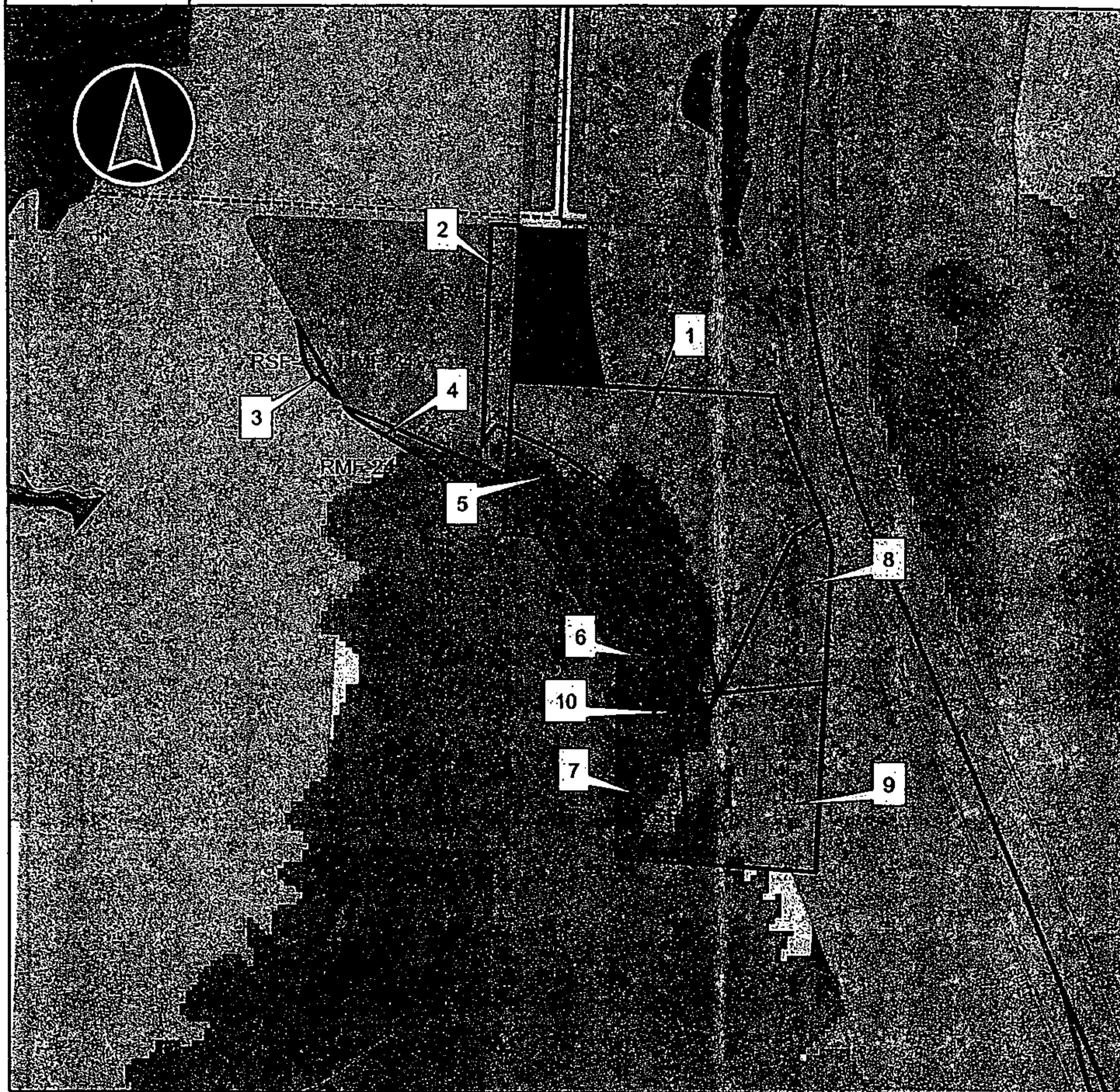
PART OF THE SE1/4, NW1/4 OF SECTION 18, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SE1/4, NW1/4 THENCE SOUTH 584.44 FEET, THENCE WEST 453.75 FEET TO THE P.O.B., THENCE S84°09'20"W 2.11 FEET, THENCE S84°09'20"W 175.00 FEET, THENCE S05°50'40"E 102.92 FEET, THENCE S57°34'28"E 99.83 FEET, THENCE N25°05'22"E 192.07 FEET TO THE P.O.B.; CONTAINING 0.43 ACRES MORE OR LESS.

2006

RZN06-2028

Close Up View

MOUNTAIN RANCH



Overview

0 200 400 800 1,200 1,600

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

6-Jun-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2050 (Wales, 373): Submitted by Jason and Amy Wales for property located at 2055 N. Fox Hunter Road, south of HWY 45. The property is zoned R-A, Residential Agriculture and contains approximately 1.4 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

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

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

5-18-06
Date

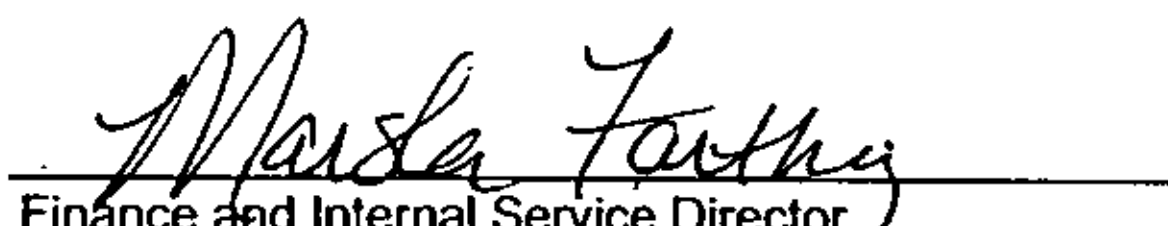
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

5-16-06

Original Contract Number: n/a

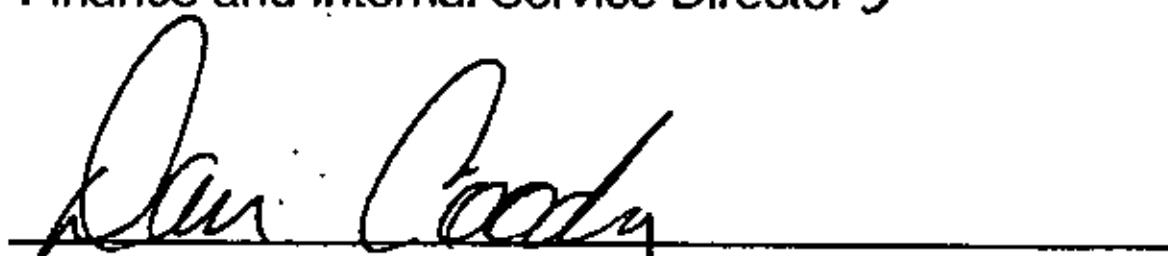

Finance and Internal Service Director

5/19/06
Date

Received in City Clerk's Office

ENTERED

5/16/06


Mayor

5/23/06
Date

Received in Mayor's Office

ENTERED

5/16/06

Comments:

City Council Meeting of June 06, 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 11, 2006

Subject: Rezoning for Wales (RZN 06-2050)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 1.4 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single-family-4 units per acre.

BACKGROUND

The subject property contains approximately 1.42-acres and is located at 2055 N. Fox Hunter Rd., south of Highway 45. The property is contiguous to Barrington Park Subdivision on three sides. The subject property was annexed into the City of Fayetteville on February 6, 2006 by Ordinance #4828. Since the property was only annexed and not concurrently rezoned, the property has remained zoned R-A, Residential Agriculture. This is problematic for the property owner, since the property does not meet the minimum lot area requirement for the R-A zoning district. Therefore, the property owner is now requesting a rezoning to RSF-4, so that the property will be in compliance with bulk and area requirements.

DISCUSSION

This item was heard at the regular Planning Commission on May 8, 2006. There was no public comment. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2050 FOR
APPROXIMATELY 1.4 ACRES, LOCATED AT
2055 NORTH FOX HUNTER ROAD, FROM R-A,
RESIDENTIAL-AGRICULTURAL TO RSF-4,
RESIDENTIAL SINGLE FAMILY, 4 UNITS PER
ACRE.

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

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

From R-A, Residential Agricultural to RSF-4,
Residential Single Family, 4 units per acre, as
shown on Exhibit "A" attached hereto and made a
part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2050

PART OF THE NE ¼ OF THE SE ¼ OF SECTION 1, T-16-N, R-30-W, DESCRIBED AS FOLLOWS: BEGINNING 210 FEET SOUTH AND 58.2 FEET WEST OF THE NE CORNER OF SAID 40 ACRE TRACT (SAID POINT OF BEGINNING BEING THE CENTERLINE OF COUNTY ROAD NO. 75) AND RUNNING THENCE WEST 261 FEET; THENCE SOUTH 283.4 FEET; THENCE EAST 206 FEET TO THE CENTERLINE OF COUNTY ROAD NO. 75 THENCE NORTHERLY WITH THE CENTERLINE OF SAID ROAD TO THE PLACE OF BEGINNING, CONTAINING 1.43 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.



PC Meeting of May 8, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 1, 2006

RZN 06-2050: (WALES, 373): Submitted by JASON AND AMY WALES for property located at 2055 N FOX HUNTER RD. The property is zoned R-A, RESIDENTIAL AGRICULTURE and contains approximately 1.43 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE FAMILY – 4 UNITS/ACRE.

Property Owner: JASON AND AMY WALES

Planner: JESSE FULCHER

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:		Required	☒ YES
		Forwarded	☐ Denied
Date: <u>May 8, 2006</u>		Motion: Myers	
		Second: Graves	
		Votes: 9-0-0	
CITY COUNCIL ACTION:		Required	☒ YES
		Approved	☐ Denied
Date: <u>June 6, 2006</u> (1 st reading if recommended)			

BACKGROUND:

Property description and background: The subject property contains 1.43-acres and is located at 2055 N. Fox Hunter Rd., south of HWY 45. The property is contiguous to Barrington Park Subdivision on three sides. The subject property was annexed into the City of Fayetteville on February 6, 2006 by Ordinance #4828. Since the property was only annexed and not concurrently rezoned, the property has remained zoned R-A, Residential Agriculture. This is problematic for the property owner, since the property does not meet the minimum lot area requirement for the R-A zoning district. Therefore, the property owner is now requesting a rezoning to RSF-4, so that the property will be in compliance with bulk and area requirements.

Proposal: The applicant proposes rezoning the subject property to RSF-4, Residential Single-family, 4 Units per Acre.

Recommendation: Staff recommends approval of the proposed rezoning based on the findings herein.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single Family Home	RSF-4, Res. Single Family – 4 units/acre
South	Single Family Home	RSF-4, Res. Single Family – 4 units/acre
East	Single Family Home	Planning Area
West	Single Family Home	RSF-4, Res. Single Family – 4 units/acre

INFRASTRUCTURE:

Streets: The property has frontage on Fox Hunter Rd. and Buckley Dr.

Nearby Master Street Plan Streets:

North: Fox Hunter Rd. (Collector)
East: Fox Hunter Rd. (Collector),
West: N. Buckley Drive (Residential)

Water: There is a 6" waterline along Fox Hunter Road, which serves the subject property.

Sewer: Sanitary sewer is available on the site. There is an 8" sewer line that runs along the north of the property. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended within the property at the time of development.

Street improvements that may be required shall be evaluated by staff as development occurs. Standard improvements that may be required shall be evaluated by staff as development occurs.

Fire: The subject property is located approximately 2.1 miles from the Fire Station #5 with a projected response time of 5.5 minutes. When the new Station 5 is put in service at Crossover Rd. and Old Wire Rd., the response time will increase to 6 minutes.

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

LAND USE PLAN: General Plan 2020 identifies this site as **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF:

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

Finding: The proposed RSF-4 zoning for a single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning. Barrington Park Subdivision which is zoned RSF-4 surrounds three sides of the subject property. Rezoning the subject property will create a homogeneous zoning area.

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

Finding: The proposed zoning is justified in order for the property to be compliant with the City of Fayetteville's Unified Development Code. Nonconforming lots are subject to the limitations imposed by Chapter 164.12.

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

Finding: The proposed rezoning should not appreciably increase traffic danger or congestion, given that the property contains only one single-family home. The property owner has stated that it is not the intent to further subdivide the property. However, staff finds that if the applicant is able to further subdivide the property for the construction of additional single-family homes, the additional traffic would not appreciably increase traffic danger or congestion. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

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

Finding: The proposed zoning should not increase population density. There is an existing owner-occupied home on the property that was recently constructed by the applicant. Should the applicant be able to further subdivide the property for additional single-family homes, the result would be a negligible impact on public services and the overall population density.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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

Finding: N/A

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot area minimum	2 acres
Residential	2 acres
Nonresidential	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-I District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4	2

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

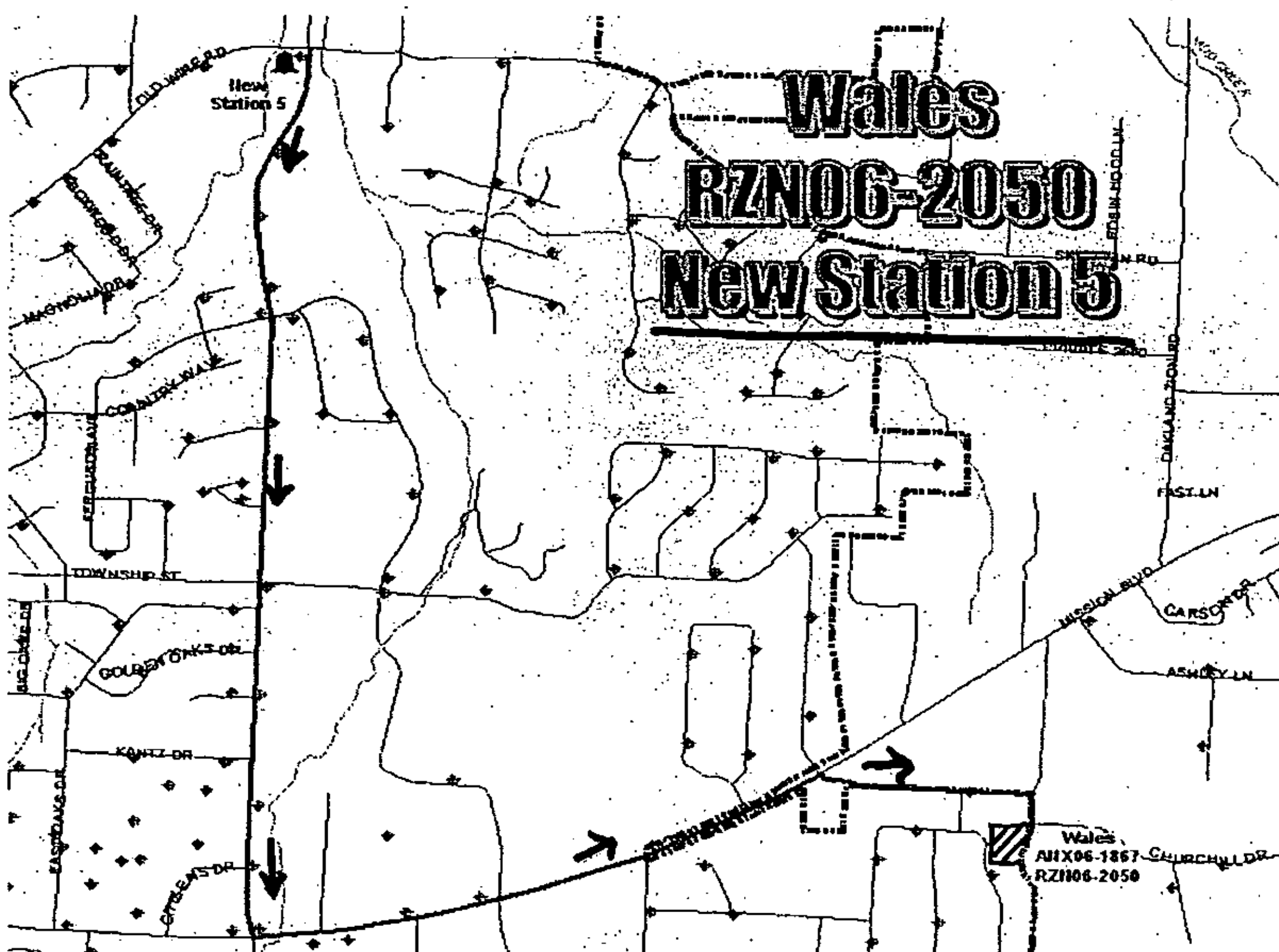
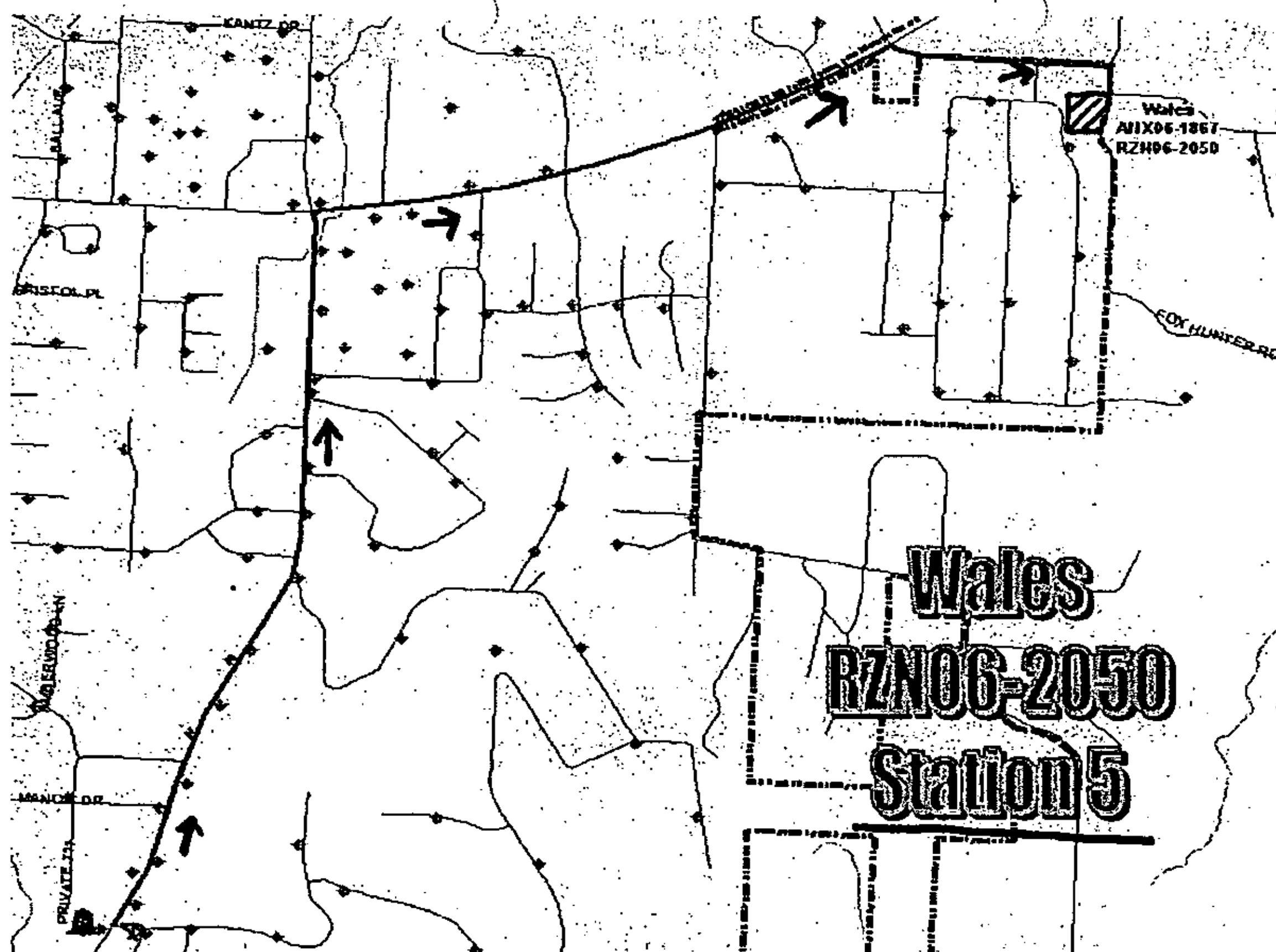
(E) *Setback requirements.*

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

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)



2. Legal description of property to be rezoned:

Part of the NE ¼ of the SE ¼ of Section 1, T-16-N, R-30-W, described as follows: Beginning 210 feet South and 58.2 feet West of the NE corner of said 40 acre tract (said point of beginning being the centerline of County Road No. 75) and running thence West 261 feet; thence South 283.4 feet; thence East 206 feet to the centerline of County Road No. 75 thence Northerly with the centerline of said Road to the place of beginning, containing 1.43 acres, more or less, Washington County, Arkansas.

6. The property to be re-zoned is owned by Jason and Amy Wales. The property was annexed into the City of Fayetteville on February 7, 2006. There are no proposed or pending property sales. The property needs to be re-zoned in order to be brought into compliance with the City's zoning regulations. The property is about 1.43 acres in size. There is a single family residence on the property that the applicants occupy. The applicants believe the property is currently zoned RA. Re-zoning the property to RSF-4 would bring the property into compliance. Barrington Subdivision surrounds the subject property on 3 sides. Barrington is zoned RSF-4. Re-zoning the subject property to RSF-4 would be consistent with adjacent zoning and would not increase the amount of traffic. The property has access to a 6" water line and 8" sewer line. The applicants do not intend to split, divide or develop the property beyond the existing use as a single family dwelling.
7. The proposed zoning is consistent with land use in the immediate vicinity. The proposed zoning is needed in order for the property to comply with existing zoning requirements. The proposed zoning will have no effect on traffic or congestion since the existing house and occupants will not change due to a zoning change. The proposed zoning will not alter the population. It would be impractical to leave the land zoned RA as it would continue to be in violation of the zoning regulations.

First submitted as:
RZN 06-2050
okay
4/18/2008
RT

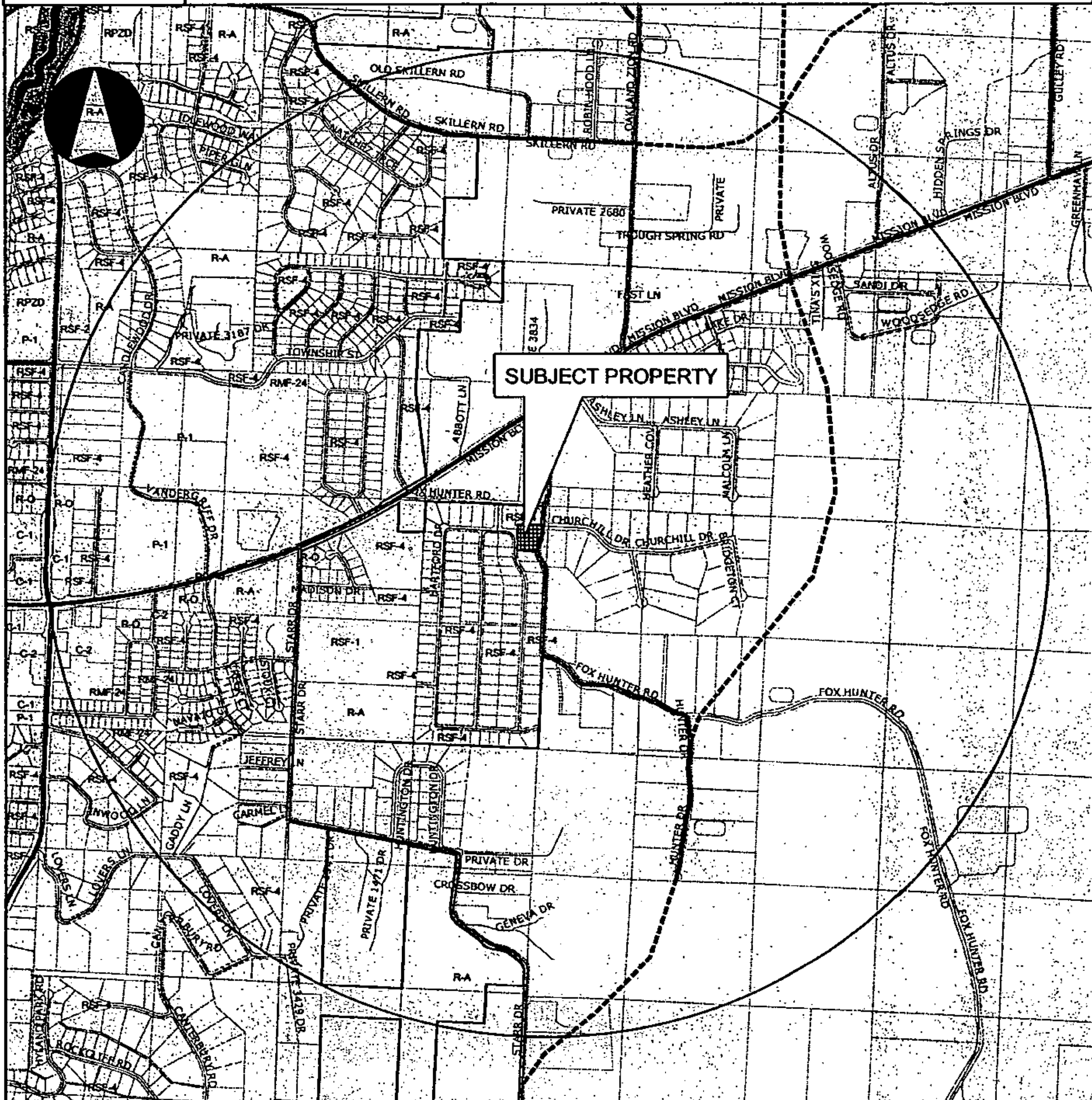
EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Shirley L. Shisette
Applicant's Signature
for Jason Wales

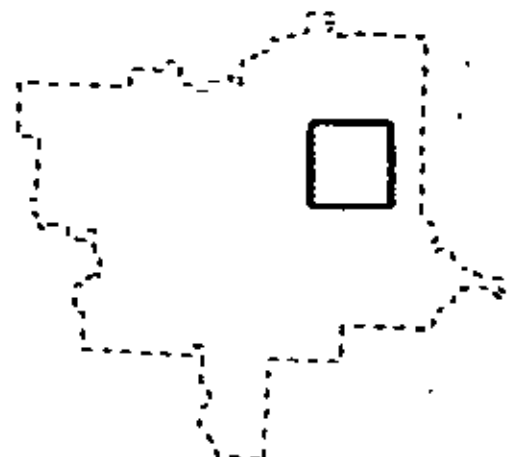
RZN06-2050

One Mile View

WALES



Overview



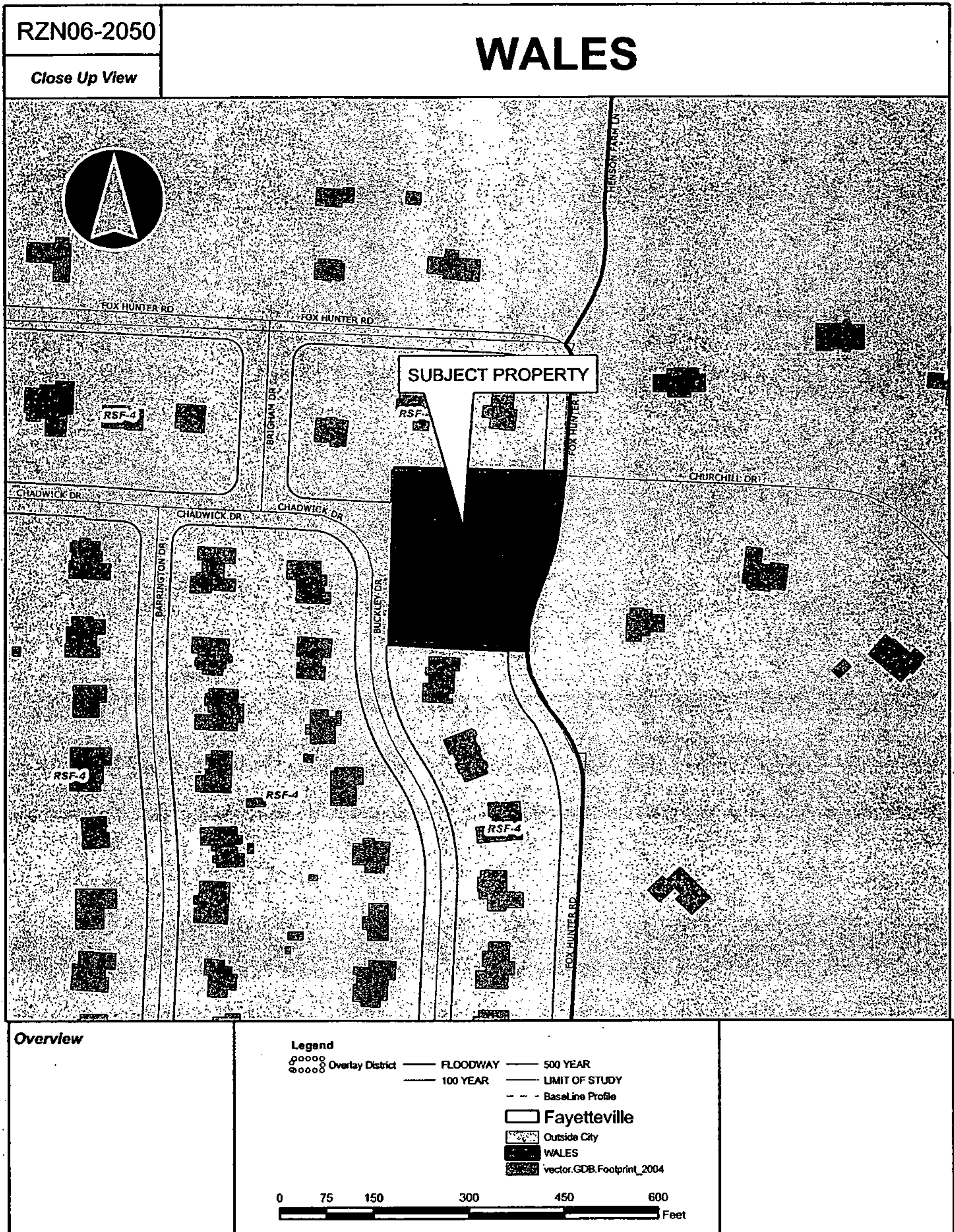
Legend

Subject Property
RZN06-2050

Boundary

Planning Area
Overlay District
Outside City

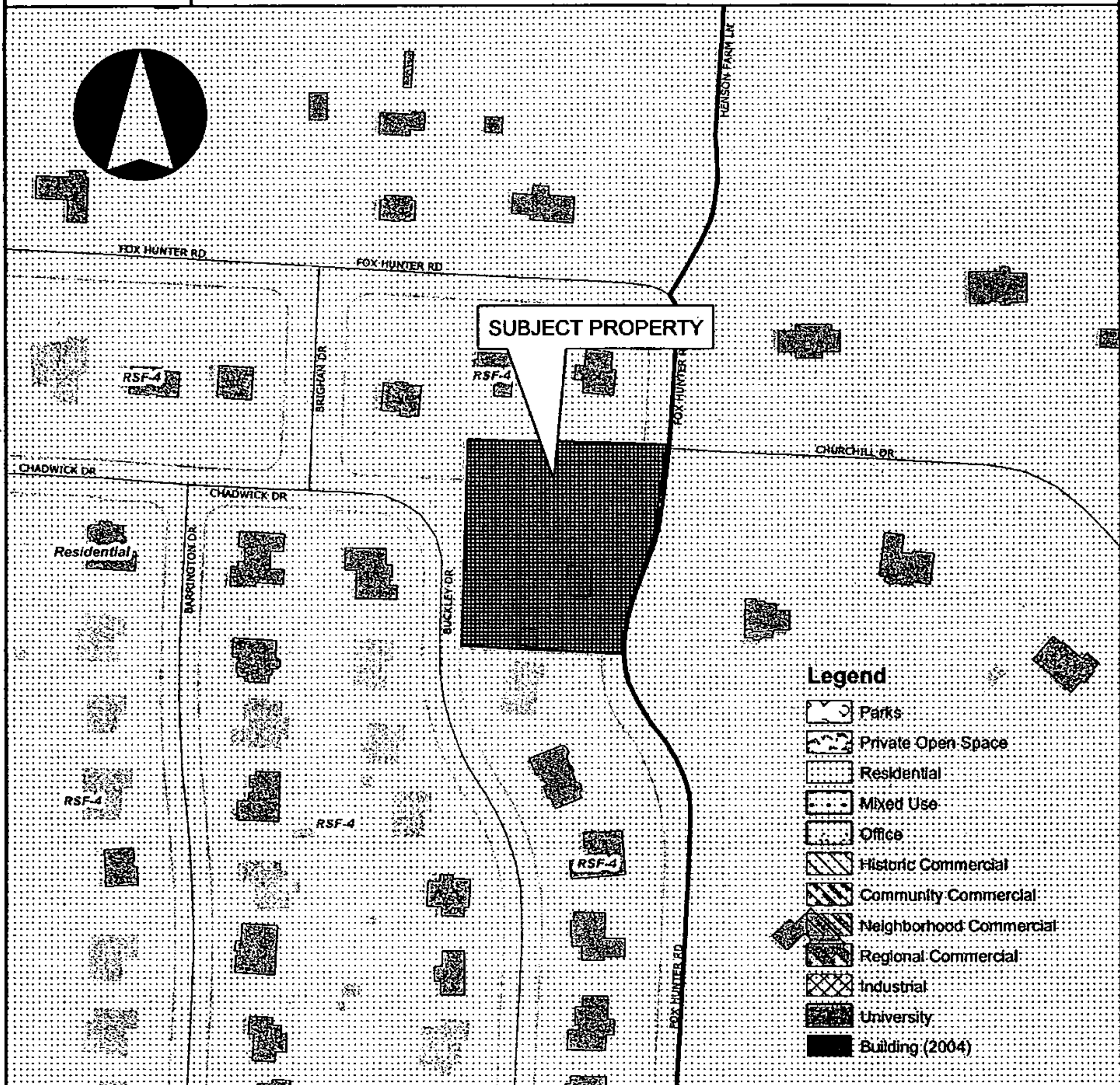
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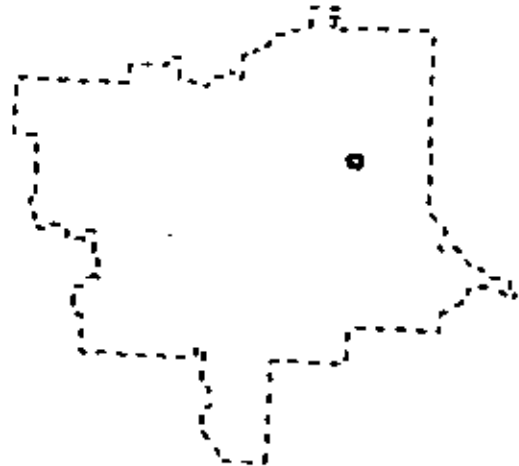
RZN06-2050

Future Land Use

WALES



Overview



Legend

Subject Property

RZN06-2050

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend



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

6-Jun-06
City Council Meeting Date

Tim Conklin
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

An Ordinance calling an election to determine whether approximately 2,017 acres of certain lands contiguous to the Western City Limits should be annexed into the City of Fayetteville.

\$20,000.00	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

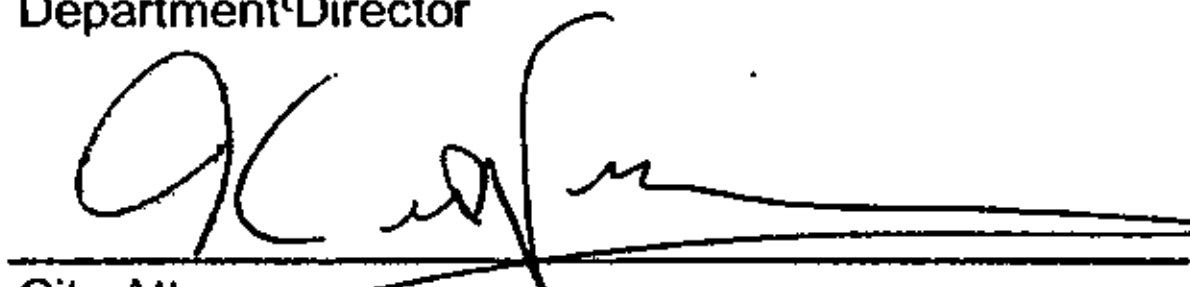
Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director
5-19-06
Date

Previous Ordinance or Resolution # n/a

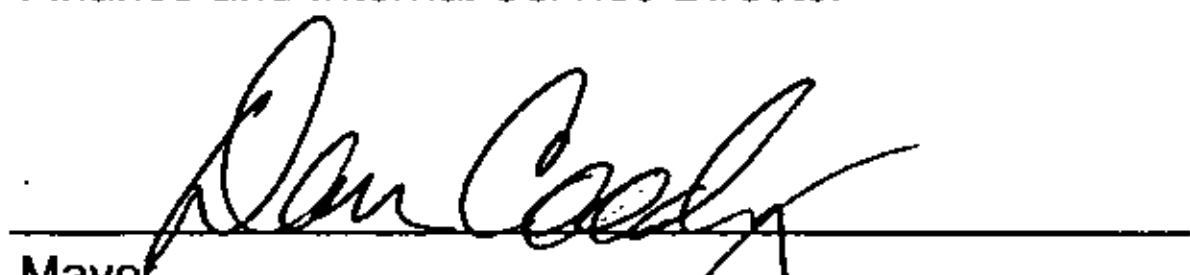
Original Contract Date: n/a


City Attorney
5-19-06
Date

Original Contract Number: n/a


Finance and Internal Service Director
5-19-06
Date

Received in City Clerk's Office
ENTERED
8/19/06


Mayor
5-19-06
Date

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

TO: Mayor and City Council
FROM: Annexation Study Committee
DATE: May 18, 2006
RE: **AN ORDINANCE CALLING AN ELECTION TO
DETERMINE WHETHER APPROXIMATELY 2,017 ACRES
OF CERTAIN LANDS CONTIGUOUS TO THE WESTERN
CITY LIMITS SHOULD BE ANNEXED INTO THE CITY
OF FAYETTEVILLE**

RECOMMENDATION

Adoption of an ordinance calling an election to determine whether all areas south of Wedington between Broyles and Double Springs to the current Farmington City Limits and all areas west of Double Springs 1320' west of Harmon Road including all of Forest Hills Subdivision and potentially south to Goose Creek should be annexed into the city of Fayetteville. Staff recommends the City Council set a special election to be held on Tuesday, August 8, 2006 or Tuesday, September 12, 2006.

BACKGROUND

On April 4, 2006 the City Council passed resolution No. 66-06 establishing an annexation Study Committee to provide analysis and recommendations for annexation options in west Fayetteville. The annexation study committee consisted of the director of Operations, the City Engineer, the Water /Wastewater Director, the Planning and Development Management Director, and City Council Representative Shirley Lucas. The Resolution stated that a recommendation was to be made within four weeks to the full City Council. On May 2, 2006, the Fayetteville City Council received a report and recommendation regarding annexation of additional land into the City. The City Council voted 7-1-0 to move forward with the annexation process at the May 2, 2006 City Council meeting.

BUDGET IMPACT

Property Tax. The current Fayetteville property tax millage impact of this annexation is an additional 3.1 mils for the City of Fayetteville. The current City of Fayetteville millage is:

0.4 mil police pension
0.4 mil fire pension,
1.0 mil City Library (replaces the existing 1 mil
County Library)
1.3 mils City General Fund.

3.1 mils total

The impact to property owners in the annexed areas would be an additional 2.1 mils. The current millage is .4 mil police pension, .4 mil fire pension, 1 mil City Library (replaces the 1 mil county library) 1.3 mils City General Fund.

For Example: Value – Your value is based on 20% of the market value of real estate (subject to limits of Amendment 79). If the fair market value of real estate is \$100,000, it will have a value of $20\% \times \$100,000 = \$20,000$. Multiply \$20,000 by the additional millage and this will equal your additional tax: (Source: Washington County, AR)

1 mil is 1/10 of one cent (\$.001)

Additional 2.1 mils on a 100,000 home ($\$20,000 \times 0.0021 \text{ mils}$) = \$42.00

Sales Tax. The potential sales tax revenue is limited at this time due to limited commercial activity in the proposed annexed area. The annexation study committee has recommended that future commercial nodes be identified along the Wedington Corridor to capture future sales tax revenue within the proposed annexed area.

General Fund. No additional FTE's are anticipated at this time.

Enterprise Funds (Solid Waste, Water, Sewer, Street). An additional solid waste route would be generated with the 1,472.55 acre annexation and would require the purchase of 1 Truck and an additional 1 FTE. The current population in this area would utilize approximately 20% of the capacity of this vehicle and FTE. The estimated cost for the truck is \$200,000 and \$28,000/year for the FTE.

CITY SERVICES TO BE PROVIDED

The following City services (including but not limited to) will be available to the existing and future residences after annexation:

- **Trash service**
- **Police protection**
- **Fire protection (fire department, fire flows where available)**
- **Fire Department as first responders**
- **Sewer service if available- any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer**
- **Curbside recycling and yard waste pick up**
- **Water and sewer rates inside the city that are lower than rates outside the City**
- **Areas located in the Washington Water Authority (WWA) service area will continue to be served by their system**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

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

CC: **Sondra Smith, City Clerk**
Karen Combs Pritchard, Washington County Clerk
Tim Conklin, Planning & Development Management Director
Karen Minkel, City Planner
Frank Johnson, Police Chief
Tony Johnson, Fire Chief
Gary Dumas, Director of Operations
David Jurgens, Water & Wastewater Director

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read "Kit Williams", followed by a long horizontal line.

DATE: **May 9, 2006**

RE: **Annexation Ordinance**

As instructed by the City Council, I am drafting an Annexation Ordinance for the proposed areas to be annexed on our western border. Attached is a first draft (without legal descriptions, total acreage, etc.). I need the legal descriptions of the lands within an exhibit I can attach. I will also attach the maps. I also need information from the Directors and Chiefs about promises of services and dates (3 years in the maximum) such service would be provided.

A.C.A. §14-40-303 provided that the City Council's ordinance will set the date for the election to decide the annexation. It can be scheduled for either "the next general election or at a special election ... no earlier than sixty (60) days after the date and enactment of the ordinance." A.C.A. §14-40-303 (b)(1)(A).

The City Clerk must identify and give notice to all persons residing in the areas proposed to be annexed at least 45 days before the election. A.C.A. §14-40-303 (c)(1)(B). Using the information from the City Clerk, the Washington County

Clerk must then notify (at least forty days before the election) by regular mail all electors in the proposed annexation area.

These tasks will be difficult and time consuming especially for our City Clerk. Placing this issue on the general election ballot would make the Washington County Election Commission's job very complex in the areas to be annexed (which may include parts of various precincts). Poll Workers would have to specifically identify voters in a precinct to determine whether they would or would not be able to vote in the annexation election. I believe that the in-town ballots would be fairly simple since special ballots are already required within Fayetteville for municipal elections to which an annexation question could be added.

Since a special election would deal only with the single issue of annexation, poll workers in the county would be less rushed, and I believe there would be less confusion. However, a special election costs the City around \$20,000.00 and results in lower voter turnout.

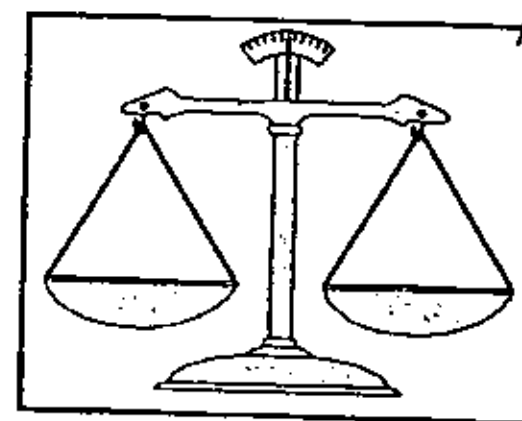
I will invite the Washington County Election Commission or County Clerk to provide their advice when you consider the ordinance. It is then the City Council's call.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

C. 15
West Fayetteville
Annexation Election
Page 6 of 28

TO: Mayor Dan Coody
City Council

CC: Tim Conklin, Community Planning & Engineering Svs. Director
Karen Minkle, City Planner

FROM: Kit Williams, City Attorney

DATE: October 27, 2005

RE: Annexation of land contiguous to the Fayetteville City Limits

Fayetteville's right to annex land contiguous to our city limits is set forth in A.C.A. §14-40-302. The same statutory requirements apply to this type of annexation as applied to our 2004 annexation of the islands of county land totally surrounded by our City.

The areas to be annexed must comply with one of five described conditions set forth in A.C.A. §14-40-302:

- (1) Platted and held for sale or use as municipal lots;
- (2) Whether platted or not, if the lands are held to be sold as suburban property;
- (3) When the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;
- (4) When the lands are needed for any proper municipal purposes such as for the extension of needed police regulation; or
- (5) When they are valuable by reason of their adaptability for prospective municipal uses."

The Supreme Court has interpreted these five criteria fairly broadly. As clear in the statute, “**the lands must meet only one of the five (criteria).**” Utley v. City of Dover, 101 S.W. 3rd 191, 194 (Ark. 2003) (emphasis added); accord, Town of Houston v. Carden, 332 Ark. 340, 965 S.W. 2d 131 (1998).

“However, this Court has also made it clear that if a part of the proposed area does not meet one of the five requirements, the annexation of the entire area is void *in toto*. Id.

Therefore, we need to be certain that every parcel we decide to annex meets one of the five criteria required by A.C.A. §14-40-302. However, if even one parcel within an ordinance fails to meet one of those criteria, that entire annexation ordinance and the required election may be voided.

The primary issue in these annexation cases almost always revolves around land (sometimes in flood plains) being used for agricultural purposes.

“(b)(1) Contiguous lands shall not be annexed when they either:

“(A) Have a fair market value, at the time of the adoption of the ordinance, of lands used only for agricultural or horticultural purposes and the highest and best use of the lands is for agricultural or horticultural purposes.” A.C.A. §14-40-302

“Before 1975 lands used for agricultural purposes could not be annexed. Act 309 of 1975 amended the law to provide that agricultural lands could not be annexed if their highest and best use is for agricultural purposes. We interpreted this amendment in Gay v. City of Springdale, *supra*, and held that the prohibition against annexing agricultural lands is no longer absolute. The lands may be annexed if their highest and best use is for a purpose other than agriculture.” Chappell v. City of Russellville, 288 Ark. 261, 704 S.W.2d 166, 167 (1986).

The Supreme Court has found that agricultural property even in **floodways** can be annexed as needed for a proper municipal purpose such as the extension of needed police and fire protection. Chandler v. City of Little Rock, 351 Ark. 172, 89 S.W.3d 913 (2002). The Supreme Court held that Little Rock's proposed use of that property as open space or park land was a higher use than agricultural use. Id.

"The fact that the land is agricultural and the owner does not want it developed does not determine its fate as to annexation. Gay v. City of Springdale, 298 Ark. 554, 769 S.W. 2d 740, 742 (1989).

"Simply because land is in a flood plain does not exclude it from consideration for annexation." Lee v. City of Pine Bluff, 289 Ark. 204, 710 S.W.2d 205, 207 (1986).

In the Russellville case, the Supreme Court affirmed the contested annexation even though "some of the land is swampland which runs into a wooded area" Chappell v. City of Russellville, supra.

In the Gay v. City of Springdale case, the Supreme Court noted testimony that "the city has proper municipal purpose for controlling orderly growth in all four tracts; and that annexation would serve that purpose." Both the police and fire chiefs indicated it would be easier to provide service within the more easily identifiable city limits of the new Springdale annexation. These cases indicate that the Courts will give wide latitude to cities seeking annexation.

The ordinance for annexation shall "contain an accurate description of the lands desired to be annexed (and) include a schedule of the services of the annexing municipality that will be extended to the area within three (3) years" A.C.A. §14-40-303 (a).

The annexation ordinance requires a two thirds majority vote "of the total number of members making up its governing body" A.C.A. §14-40-302 (a). The annexing ordinance will then be submitted to the qualified electors within the City and the area proposed to be annexed. This can be at the next general election or at a special election no earlier than sixty (60) days after enactment of the annexation ordinance. A majority of all voters (city and non-city together) is required to pass the annexation.

CONCLUSION

The City Council is provided wide statutory authority to annex county property contiguous to Fayetteville. Even land currently being used for agricultural purposes is likely to be legally annexable because it could probably meet the statutory test of "adaptability for prospective municipal uses: (residential development, park land and trail development)." And such prospective uses will likely be determined to be a higher and better use than agricultural or horticultural purposes.

I am concerned that some may think that this annexation might have been proposed to obtain the right to stop development on the annexed land. While reasonable control over future development probably fits within the "police regulation" criteria for annexation, attempting to impose a preserve of land on the edge of our borders in which further development in the foreseeable future would not be permitted might exceed our statutory authority.

ORDINANCE NO. _____

**AN ORDINANCE CALLING AN ELECTION TO DETERMINE
WHETHER APPROXIMATELY 2,000 ACRES CONTIGUOUS TO
THE WESTERN CITY LIMITS SHOULD BE ANNEXED INTO
FAYETTEVILLE**

WHEREAS, the hereinafter described territory is contiguous to the City of Fayetteville and is necessary for the orderly growth of Fayetteville; and

WHEREAS, the lands platted and held for sale or use as municipal lots or held to be sold as suburban property, represent the actual growth of the municipality beyond its legal boundary; and

WHEREAS, the lands are needed for proper municipal purposes; and

WHEREAS, the lands are valuable by reason of their adaptability for prospective municipal uses; and

WHEREAS, the fair market value of the lands proposed to be annexed is greater than lands used only for agricultural or horticultural purposes, and the highest and best uses of the lands is not for agricultural or horticultural purposes; and

WHEREAS, the proposed annexed lands meet all the statutory requirements for annexation set forth in A.C.A. §14-40-302.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby submits to the qualified electors of the City of Fayetteville, Arkansas, and to the qualified electors residing within the proposed lands to be annexed, the question of annexation of the following described lands into the City of Fayetteville:

See Exhibits "A", "B" and "C" attached hereto and made a part hereof. Please also see Exhibit "D" which is a map of the areas proposed to be annexed which is also attached and made a part hereof. The total net acreage of all sections annexed herewith and referred to hereinabove is about 2,017 acres.

Section 2: The question of annexation of the territory described above in Section 1 shall be submitted to the electors qualified to vote on this issue at a Special Election to be held on Tuesday, the 8th day of August, 2006. The City Clerk shall immediately notify the County Election Commission by forwarding a certified copy of this ordinance.

Section 3: If at such election a majority of the qualified electors voting in such election shall vote for such annexation, the municipality shall proceed to file a description and map of the annexed area with the County Clerk of Washington County and with the Secretary of State. The annexation shall be included within the corporate limits of the City of Fayetteville thirty (30) days following the filing of the description and map with the County Clerk, or in the event an action is filed with the circuit court, on the date the judgment of said court becomes final. If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.

Section 4: If the annexation is approved and becomes final, the following services shall be extended to the area within three (3) years or less:

- Trash service
- Police protection
- Fire protection (fire department, fire flows where available)
- Fire Department as first responders
- Sewer service if available – any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick up
- Zoning and development regulation protections

Section 5: The ballots used at said election on the question of annexation shall be marked as follows:

- ☐ FOR annexation into the City of Fayetteville of the territory described in Ordinance No. _____.
- ☐ AGAINST annexation into the City of Fayetteville of the territory described in Ordinance No. _____.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

PROPOSED 2017 ACRE ANNEXATION (MAY 2006)

EXHIBIT A

DESCRIPTION 1:

A part of Sections 8, 9, 10, 15, 16, 17 and 20, all within Township 16 North, Range 31 West, Washington County, Arkansas, and being more particularly described as follows:

Beginning at the NE corner of the NE-NW-15-16-31;
Thence Southerly to the SE corner of the NE-NW-15-16-31;
Thence Westerly to the SW corner of the NE-NW-15-16-31;
Thence Southerly to the SE corner of the SW-NW-15-16-31;
Thence Westerly to the SW corner of the SE-NE-16-16-31;
Thence Northerly to the SE corner of the NW-NE-16-16-31;
Thence Westerly to the SW corner of the NE-NW-16-16-31;
Thence Southerly to the SE corner of the SW-SW-16-16-31;
Thence N 88° 12' 11" W 357.41 feet;
Thence N 88° 12' 12" W 243.53 feet;
Thence S 75° 55' 59" W 282.72 feet;
Thence S 65° 08' 19" W 233.2 feet;
Thence N 83° 24' 43" W 218.68 feet;
Thence S 02° 23' 49" W 86.18 feet;
Thence S 85° 35' 11" W 307.42 feet;
Thence S 85° 35' 12" W 307.94 feet;
Thence S 86° 02' 18" W 307.66 feet;
Thence S 76° 41' 36" W 317.55 feet;
Thence S 02° 18' 53" W 29.79 feet;
Thence S 81° 20' 27" W 309.07 feet;
Thence N 02° 18' 57" E 28.91 feet;
Thence S 69° 48' 29" W 166.43 feet;
Thence N 37° 10' 26" W 175.55 feet;
Thence N 29° 34' 28" W 76.14 feet;
Thence N 15° 14' 14" W 83.02 feet;
Thence N 02° 59' 57" W 104.18 feet;
Thence N 02° 44' 06" E 244.98 feet;
Thence N 88° 15' 05" W 82.97 feet;
Thence N 02° 10' 21" E 1283.34 feet;
Thence S 87° 14' 06" E 650.40 feet, to the SW corner of the NE-SE-17-16-31;
Thence Northerly to the SE corner of the SW-NE-17-16-31;
Thence N 87° 24' 53" W 631.72 feet;
Thence N 03° 01' 07" E 1093.69 feet;
Thence N 03° 01' 07" E 231.03 feet;
Thence N 87° 35' 37" W 691.83 feet, to the SE corner of the NE-NW-17-16-31;
Thence Westerly to the SW corner of the NE-NW-17-16-31;
Thence Northerly to the NW corner of the NE-NW-17-16-31;
Thence Easterly to the SW corner of the SW-SE-8-16-31;
Thence N 02° 38' 58" E 1115.58 feet;
Thence S 87° 45' 35" E 1304.80 feet;
Thence N 02° 31' 33" E 209.98 feet, to the SW corner of the NE-SE-8-16-31;
Thence Northerly to the NW corner of the NE-SE-8-16-31;
Thence Easterly to the NW corner of the NE-SE-9-16-31;
Thence S 87° 47' 35" E 506.32 feet;
Thence N 02° 19' 25" E 210.00 feet;
Thence S 87° 40' 35" E 210.00 feet;
Thence N 02° 19' 25" E 711.00 feet;
Thence S 87° 40' 35" E 594.00 feet;

Thence N 02° 19' 24" E 403.44 feet; to the NW corner of the SW-NW-10-16-31;
Thence Easterly to the NE corner of the SW-NW-10-16-31;
Thence Northerly to the NW corner of the NE-NW-10-16-31;
Thence S 87° 54' 23" E 662.49 feet;
Thence S 02° 33' 40" W 1094.55 feet;
Thence S 02° 00' 01" W 226.54 feet;
Thence S 88° 00' 23" E 667.00 feet;
Thence N 02° 27' 55" E 34.52 feet;
Thence S 87° 52' 34" E 659.92 feet;
Thence S 02° 28' 07" W 591.27 feet;
Thence S 02° 27' 58" W 94.22 feet;
Thence S 02° 25' 02" W 3310.46 feet;
Thence N 87° 57' 35" W 184.36 feet;
Thence N 17° 05' 57" W 32.8 feet;
Thence N 41° 18' 37" W 112.77 feet;
Thence N 38° 39' 04" W 55.87 feet;
Thence N 38° 39' 03" W 65.31 feet;
Thence 57° 21' 02" W 69.84 feet;
Thence N 25° 29' 06" W 114.53 feet;
Thence N 87° 57' 34" W 198.00 feet;
Thence S 02° 04' 40" W 342.00 feet,
To the Point of Beginning and containing 1,499.80 acres, more or less.

EXHIBIT B

DESCRIPTION 2:

A part of Sections 14, 15, 22, and 23, all within Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows:

Beginning at the NE corner of the NE-SW-14-16-31;

Thence Southerly to the SE corner of the NE-SW-14-16-31;

Thence S 02° 35' 16" W 661.59 feet;

Thence N 87° 36' 00" W 661.32 feet;

Thence N 02° 35' 19" E 630.16 feet;

Thence N 88° 00' 21" W 661.34 feet;

Thence S 02° 35' 23" W 1294.47 feet, to the SE corner of the SW-SW-14-16-31;

Thence Southerly to the SE corner of the NW-NW-23-16-31;

Thence Westerly to the SW corner of the NW-NW-23-16-31;

Thence N 88° 00' 26" W 269.64 feet;

Thence N 02° 22' 19" E 177.38 feet;

Thence N 88° 00' 25" W 528.06 feet;

Thence N 02° 21' 13" E 15.00 feet;

Thence S 88° 07' 35" E 291.78 feet;

Thence N 01° 52' 25" E 150.00 feet;

Thence N 87° 54' 34" W 290.52 feet;

Thence S 02° 21' 07" W 343.49 feet;

Thence N 88° 00' 25" W 528.00 feet, to the SW corner of the NE-NE-22-16-31;

Thence Northerly to the SE corner of the SW-SE-15-16-31;

Thence N 88° 10' 52" W 634.49 feet;

Thence N 02° 31' 09" E 196.86 feet;

Thence N 68° 47' 48" E 641.04 feet;

Thence N 68° 47' 48" E 51.96 feet;

Thence N 02° 31' 08" E 858.00 feet, to the SW corner of the NE-SE-15-16-31;

Thence Northerly to the SE corner of the SW-NE-15-16-31;

Thence Westerly to the SW corner of the SW-NE-15-16-31;

Thence N 02° 38' 07" E 1024.77 feet;

Thence S 87° 50' 01" E 1328.58 feet;

Thence N 02° 41' 31" E 292.53 feet;

Thence N 02° 31' 48" E 999.24 feet;

Thence S 88° 00' 29" E 376.18 feet;

Thence S 02° 25' 42" W 165.64 feet;

Thence S 88° 00' 29" E 948.26 feet;

Thence S 02° 39' 20" W 161.71 feet;

Thence N 88° 20' 14" W 1279.93 feet;

Thence S 02° 27' 01" W 329.38 feet;

Thence S 88° 16' 00" E 1278.73 feet;

Thence S 02° 39' 19" W 302.10 feet;

Thence S 87° 38' 05" E 990.63 feet;

Thence N 02° 37' 05" E 236.24 feet;

Thence S 87° 35' 38" E 825.49 feet;

Thence N 02° 54' 56" E 146.47 feet;

Thence S 87° 46' 26" E 823.53 feet;

Thence S 02° 35' 16" W 412.10 feet, to the NE corner of the SE-NW-14-16-31;

Thence Southerly to the Point of Beginning and containing 476.25 acres, more or less.

EXHIBIT C

DESCRIPTION 3:

The Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 23, Township 16 North, Range 31 West, Washington County, Arkansas, containing 40.67 acres, more or less.

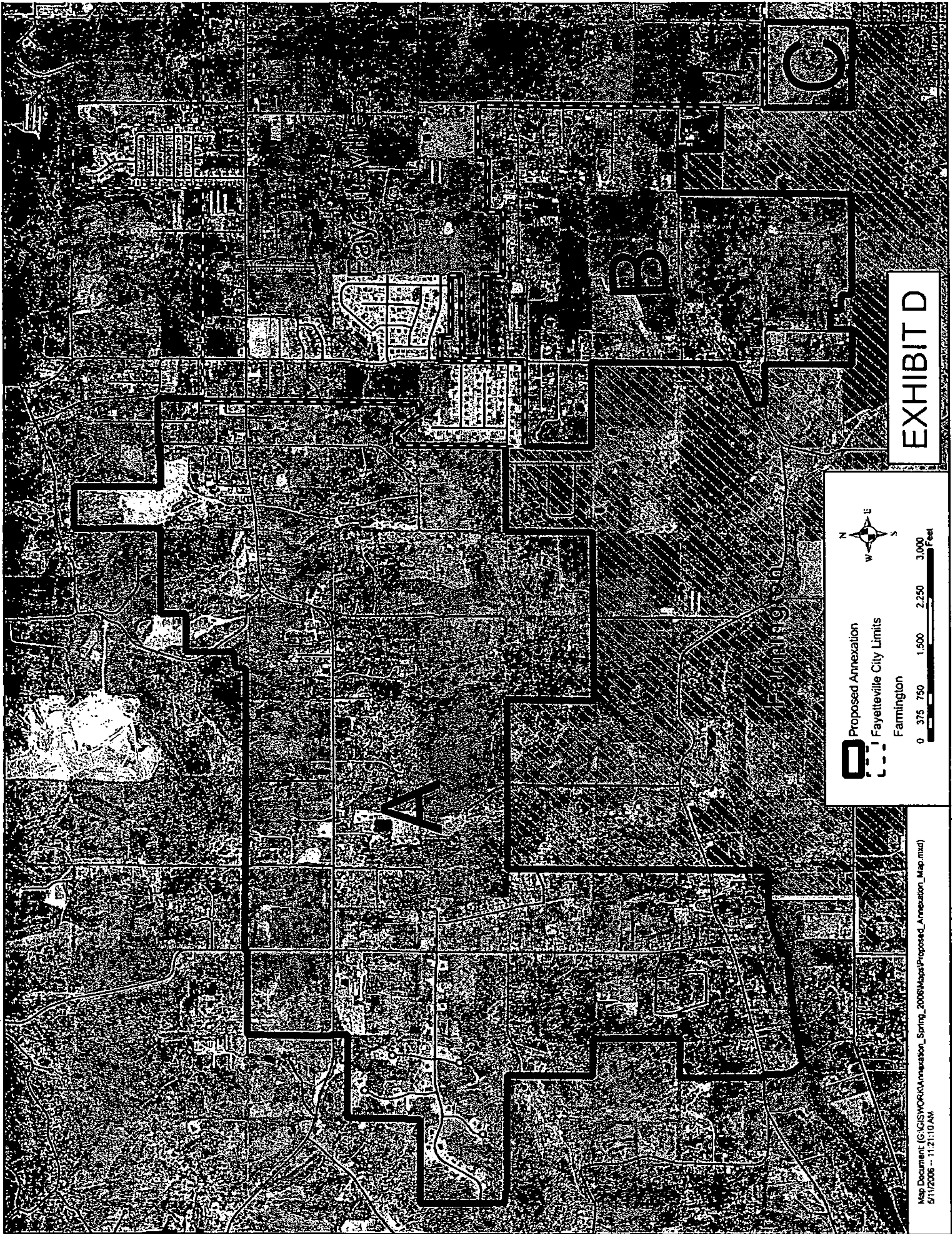


EXHIBIT D

Proposed Annexation
Fayetteville City Limits
Farmington



0 375 750 1,500 2,250 3,000 Feet

RESOLUTION NO. 66-06

A RESOLUTION ESTABLISHING AN ANNEXATION STUDY COMMITTEE TO PROVIDE ANALYSIS AND RECOMMENDATIONS FOR ANNEXATION OPTIONS IN WEST FAYETTEVILLE.

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

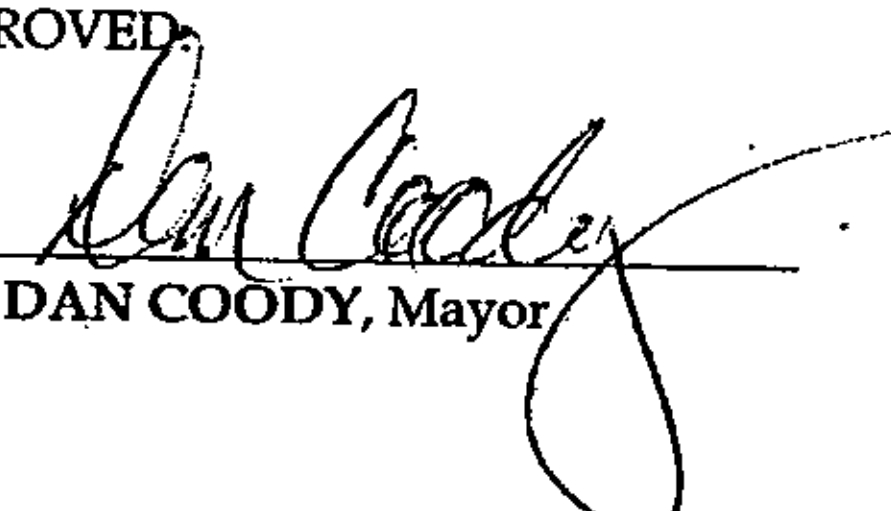
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby establishes an Annexation Study Committee to provide analysis and recommendations for annexation options in West Fayetteville within four weeks.

Section 2. That the Annexation Study Committee shall consist of the Director of Operations, the City Engineer, the Water/Wastewater Director, the Planning and Development Director and one (1) Alderman, who shall serve as the Committee Chair.

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

APPROVED:

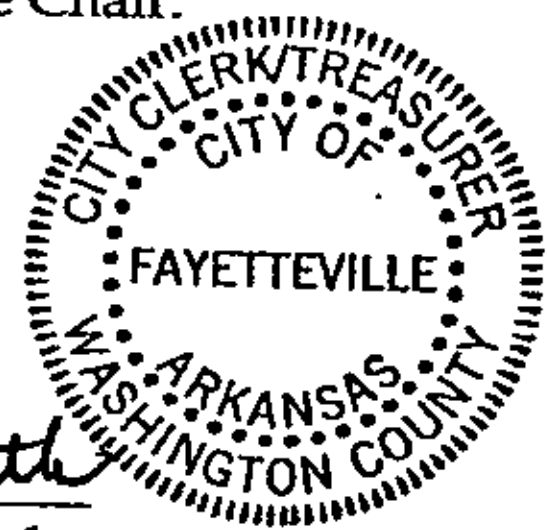
By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk





To: City Council

From: Dan Coody, Mayor

Date: March 24, 2006

RE: Resolution Establishing an Annexation Study Committee to Review Annexation Options for West Fayetteville

As the City Council is aware, our neighboring community to the west has been discussing annexation of a significant amount of land immediately west of the Fayetteville corporate boundary. In the published discussions of this annexation, the Farmington corporate limits would extend to Highway 16. If this were to occur, the City of Fayetteville would essentially become land-locked between Highway 62 and Highway 16.

There are potential implications if the City of Fayetteville were to become restricted in its ability to continue to grow and annex in this corridor.

I am proposing that the Study Committee, comprised of one City Council representative, the Director of Operations, the City Engineer, the Water/Waste Water Director, and the Director of Long-Range Planning, would report to the full Council within 4-weeks with an analysis and recommendation regarding any actions that the City of Fayetteville should undertake.

14-40-303. Annexation ordinance - Election - Procedures.

(a) The annexation ordinance shall:

- (1) Contain an accurate description of the lands desired to be annexed;
- (2) Include a schedule of the services of the annexing municipality that will be extended to the area within three (3) years after the date the annexation becomes final; and
- (3) Fix the date for the election provided in this section.

(b)(1) The annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and of the area to be annexed at the next general election or at a special election. The special election shall be conducted no earlier than sixty (60) days after the date of enactment of the ordinance. The special election shall occur on the second Tuesday of the month, except as provided in subdivision (b)(2) of this section.

(2) Special elections held in months in which a presidential preferential primary election, preferential primary election, general primary election, or general election is scheduled to occur shall be held on the date of the presidential preferential primary election, preferential primary election, general primary election, or general election.

(3)(A) If a special election is held on the date of the presidential preferential primary election, preferential primary election, or general primary election, the issue or issues to be voted upon at the special election shall be included on the ballot of each political party.

(B) However, separate ballots containing only the issue or issues to be voted upon at the special election shall be prepared and made available to voters requesting a separate ballot.

(4) No voter shall be required to vote in a political party's presidential preferential primary, preferential primary, or general primary in order to be able to vote in the special election.

(5) Special elections scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month.

(6)(A) If a majority of the qualified electors voting in the election vote for the annexation, no later than seven (7) days following the election, the county clerk shall certify the election results and record the same, along with the description and a map of the annexed area, in the county records, and file a certified copy thereof with the Secretary of State.

(B) The annexation shall be effective, and the lands annexed shall be included within the corporate limits of the annexing municipality thirty (30) days following the date of recording and filing of the description and map, as provided in this section, or in the event an action is filed with the circuit court as provided in § 14-40-304, on the date the judgment of the court becomes final.

(7) If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.

(c)(1)(A) The city clerk shall certify two (2) copies of the annexation ordinance and a plat or map of the area to be annexed and convey one (1) copy to the county clerk and one (1) copy to the county election commission at least sixty (60) days before the election.

(B)(i) No later than forty-five (45) days prior to the election, the city shall identify all persons who reside within the area proposed to be annexed, and the county clerk shall assist the city in determining the names and addresses of all qualified electors residing within that area.

(ii) The failure to identify all persons residing within the area proposed to be annexed or the failure to determine the names and addresses of all qualified electors residing within that area shall not invalidate or otherwise affect the results of the election.

(C) All of the qualified electors residing within the territory to be annexed shall be entitled to vote in the election.

(D) The city clerk shall give notice of the election by publication by at least one (1) insertion in some newspaper having a general circulation in the city.

(2)(A) The county clerk shall give notice of the voter registration deadlines at least forty (40) days before the election by ordinary mail to those persons whose names and addresses are on the list provided by the city clerk.

(B) The county clerk shall prepare a list by precinct of all those qualified electors residing within the area to be annexed who are qualified to vote in that precinct and furnish that list to the election officials at the time the ballot boxes are delivered.

(3) If the county clerk or the county election commission shall fail to perform any duties required of it, then any interested party may apply for a writ of mandamus to require the performance of the duties. The failure of the county clerk or the county election commission to perform the duties shall not void the annexation election unless a court finds that the failure to perform the duties substantially prejudiced an interested party.

(d) If the annexation is approved and becomes final, the governing body of the city shall, by ordinance, as soon as practical after the annexation, attach and incorporate such annexed territory to and in one (1) or more wards of the city lying adjacent thereto, and the territory so assigned and attached to a ward shall thereafter be considered and become a part thereof as fully as any other part of the city.

(e) From the map or plat provided by city ordinance of the wards assigned, the county clerk shall proceed to ascertain and determine the voters' proper precinct and shall enter the same upon the voter registration records of those inhabitants of the territory so annexed and give notice of that change within thirty (30) days after the adoption of the city ordinance assigning the territory to wards.

(f)(1) In the event that within thirty (30) days of the date that one (1) city calls for an annexation election, another city calls for an annexation election on all or part of the same land proposed to be annexed by the first city, then both annexation elections shall be held; provided that the second city must call for its annexation election to be held within thirty (30) days before or after the holding of the first city's election.

(2)(A) If the annexation election held first is approved by the voters, the results of it shall be stayed until the second annexation election is held.

(B)(i) If only one (1) of the annexation elections is approved by the voters, then the city that called that election shall proceed with the annexation of the land.

(ii) If both annexation elections are approved by the voters, then a third election shall be held three (3) weeks after the second annexation election.

(iii) Only the residents of the area proposed to be annexed by both cities shall vote in the third election.

(iv) The issue on the ballot in the third election shall be into which of the two (2) cities the residents of the area want to be annexed.

(v) The area shall be annexed into the city receiving the most votes in the third election.

(vi) In the event of a tie vote in the third election, the area shall be annexed to the city that had the highest percentage vote in favor of the annexation in the first or second election.

(3) If the city that does not get to annex the area voted on by both cities included land in its annexation election other than the land voted on by both cities, then that land shall be annexed into such city if it is still contiguous to such city after the other land is annexed to the other city, but such land shall remain part of the county if it is not so contiguous.

History. Acts 1971, No. 298, § 2; 1975, No. 309, § 2; A.S.A. 1947, § 19-307.2; Acts 1991, No. 725, § 1; 1993, No. 356, § 1; 1999, No. 639, § 1; 2005, No. 2145, § 22.

14-40-302. Authority - Exceptions.

(a) By vote of two-thirds (2/3) of the total number of members making up its governing body, any municipality may adopt an ordinance to annex lands contiguous to the municipality if the lands are any of the following:

- (1) Platted and held for sale or use as municipal lots;
- (2) Whether platted or not, if the lands are held to be sold as suburban property;
- (3) When the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;
- (4) When the lands are needed for any proper municipal purposes such as for the extension of needed police regulation; or
- (5) When they are valuable by reason of their adaptability for prospective municipal uses.

(b)(1) Contiguous lands shall not be annexed when they either:

(A) Have a fair market value, at the time of the adoption of the ordinance, of lands used only for agricultural or horticultural purposes and the highest and best use of the lands is for agricultural or horticultural purposes; or

(B) Are lands upon which a new community is to be constructed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970.

(2) Any person, firm, corporation, partnership, or joint venturer desiring to come within this exclusion must have received from the Department of Housing and Urban Development a letter of preliminary commitment to fund the new community under one (1) of the federal acts.

(3) If any lands are annexed that are being used exclusively for agricultural purposes, the lands may continue to be used for such purposes so long as the owner desires and the lands shall be assessed as agricultural lands.

(c) However, a municipality having a population of fewer than one thousand (1,000) persons shall not annex in any one (1) calendar year contiguous lands in excess of ten percent (10%) of the current land area of the municipality.

History. Acts 1971, No. 298, § 1; 1975, No. 309, § 1; 1975, No. 904, § 1; A.S.A. 1947, § 19-307.1; Acts 2001, No. 1751, § 1.



OPERATIONS DIRECTOR

TO: Mayor and City Council
FROM: Annexation Study Committee
DATE: May 2, 2006
RE: Report #1 Annexation Study Committee and Recommendation
Concerning West Fayetteville

BACKGROUND

As the City Council is aware, the City of Farmington has been discussing annexation of a significant amount of land immediately west of the Fayetteville corporate boundary. In the published discussions of this annexation, the Farmington corporate limits would extend to Highway 16. If this were to occur, the City of Fayetteville would essentially become land-locked between Highway 62 and Highway 16.

There are potential implications if the City of Fayetteville were to become restricted in its ability to continue to grow and annex west along this corridor.

A Study Committee, comprised of one City Council Representative, Shirley Lucas, the Director of Operations, the City Engineer, the Water/Waste Water Director, and the Planning and Development Management Director, were charged with reviewing the implications of not annexing or annexing this area into the City of Fayetteville and reporting to the full Council within four weeks with a recommendation regarding any actions that the City of Fayetteville should undertake.

The Study Committee met numerous times during this four-week period and interviewed representatives of the Police Department and the Fire Department to gain an understanding of any operational issues that may arise with extending the city boundary in this area.

As the annexation discussions continued, it became apparent that there would be little impact upon any City service except for the provision of an adequate water supply for fire protection. The issue of water supply led to preliminary discussions with the Washington County Water Authority (WWA).

In the following section, the various issues are discussed in more detail.

DISCUSSION

Growth is occurring at the edges of Fayetteville and beyond. The attached aerial photography map from 2004 provides an indication of that development. Development has continued at a significant pace since the date of this photography, as any tour through the area will reveal. What is clear from the aerial photography is that the nearer to the City Limits of Fayetteville, the greater the density.

The traffic congestion causing concerns along the Hwy 16 corridor within the corporate limits of Fayetteville will not be affected by a decision to annex or not annex. Recent changes in the methods and techniques for treating liquid wastes from housing and commercial developments will create additional opportunities for urban density and intensity at any location throughout the County as long as a potable water supply is available.

The conversion of rural land to urban growth density and intensity will continue regardless of the actions of the City of Fayetteville. What the City can do, however, is begin a practice of providing opportunities that will encourage development within the City, in order to ensure that as growth occurs, it will provide the amenities and security of investment that only municipal regulation can provide.

These regulations include Land Use and Development Control through the Unified Development Ordinance:

- **Sign Ordinance**
- **Tree Ordinance**
- **Storm Water Ordinance**
- **Zoning**
- **Subdivision Regulation**
- **Fire and Police Impact Fees**
- **Park Fees / Land Dedication**
- **Commercial Design Standards**
- **Code Enforcement**

While no one desires regulation on their own property, most desire to have their neighbors' uses and activities controlled and regulated. In order to provide a rationale to accept the regulation and cost of regulation, the City provides a fully staffed fire service and police service. Additionally, in this area, the City can, in partnership with the Washington Water Authority, provide necessary water system fire flows, rather than the current water tanker system necessitated by the volume of water available through the rural water system. Other City services also become accessible such as sanitary sewer and municipal sanitation services, rather than step or septic systems and private trash haulers.

But the question is: what does the City gain and at what cost?

Gains

- **Management and control of land use density and intensity**
- **Timing of development through zoning**
- **Increased environmental protection**
- **Compatibility in land use and development standards**
- **Less confusion for public safety – city police and fire**
- **Ability to plan and construct future city capital improvements**
- **Ability to require the same level of infrastructure improvements required for new development within these areas as required within the city**
- **Impact fees for fire, police, sewer, and parks**
- **Increased State of Arkansas street turn-back funds**

Costs

- **Incremental costs**
- **Increased service area and response times**
- **Cost of providing General Fund Services – Police, Fire, Code Compliance (additional area and population served at this time would not require additional equipment or staffing)**
- **Potential pressure control valve to WWA to provide fire flows**
- **Continuing cost of additional traffic entering the City**
- **Cost of converting WWA water usage billing for sewer billing**

The following City services (including but not limited to) will be available to the existing and future residences after annexation:

- **Trash service**
- **Police protection**
- **Fire protection (fire department, fire flows where available)**
- **Fire Department as first responders**
- **Sewer service if available- any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer**
- **Curbside recycling and yard waste pick up**
- **Water and sewer rates inside the city that are lower than rates outside the city**

RECOMMENDATION

1. Annex all areas south of Wedington between Broyles and Double Springs to the current Farmington City Limits (See Exhibit "A.").
 - **This area contains approximately 517.21 acres**
 - **There are 74 addressed structures**
 - **The estimated population is approximately 152 people**
 - **Of the addressed structures, 69 structures are on Fayetteville water.**
 - **There are 5 miles of roads**
2. Annex all areas west of Double Springs 1320' west of Harmon Road including all of Forest Hills Subdivision and potentially south to Goose Creek (See Exhibit "B.").
 - **This area contains approximately 1472.55 acres**
 - **There are 359 addressed structures**
 - **The estimated population is approximately 793 people**
 - **Of the addressed structures, 15 structures are on Fayetteville water**
 - **There are 8 miles of roads**

Arkansas State Code requires that the annexation of an area, which has not been submitted by petition, must be annexed through a voter referendum (See attached A.S.C. 14-40-303.). The Annexation Committee recommends that Fayetteville City Council annex these areas as soon as possible.

At the time of annexation, all property annexed is considered zoned R-A Residential Agricultural pursuant to § 161.01 of the Unified Development Ordinance.

BUDGET IMPACT

Property Tax. The current property tax millage impact of this annexation is an additional 2.1 mils. The County currently has 1 mill for the County library system and the City has 1 mil for the City Library. The impact to residences in the annexed areas would be an additional 2.1 mils. The current millage is .4 mil police pension, .4 mil fire pension, 1 mil City Library, 1.3 mils City General Fund.

- *For Example: Value – Your value is based on 20% of the market value of real estate (subject to limits of Amendment 79). If the fair market value of real estate is \$100,000, it will have a value of $20\% \times \$100,000 = \$20,000$. Multiply \$20,000 by the additional millage and this will equal your additional tax: (Source: Washington County, AR)*

- 1 mil is 1/10 of one cent (\$.001)
- Additional 2.1 mils on a 100,000 home ($\$20,000 \times 0.0021 \text{ mils}$) = \$42.00

Sales Tax. The potential sales tax revenue is limited at this time due to limited commercial activity in the proposed annexed area. The annexation study committee has recommended that future commercial nodes be identified along the Wedington Corridor to capture future sales tax revenue with the proposed annexed area.

General Fund. No additional FTE's are anticipated at this time.

Enterprise Funds (Solid Waste, Water, Sewer, Street). An additional solid waste route would be generated with the 1,472.55 acre annexation and would require the purchase of 1 Truck and an additional 1 FTE. The current population in this area would utilize approximately 20% of the capacity of this vehicle and FTE. The estimated cost for the truck is \$200,000 and \$28,000/year for the FTE.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
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C. 16
Fire Stations #3 & #5
Bond Purchase Agreement
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6/6/2006

City Council Meeting Date

Marsha Farthing

Submitted By

Accounting and Audit

Division

Finance & Internal Services

Department

Action Required:

Action Required: Approval of the issuance of Amendment 78 five year bonds in the amount of \$3,165,000 to fund the costs of the relocation of Fire Station #5 to Crossover and Old Wire Road and to construct a new fire station (#3) at the Tyson complex at Huntsville and Happy Hollow Road.

\$3,165,000

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

4470-9470-5500-00

Account Number

\$

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office

Received in Mayor's Office

Department Director

Date

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Comments:

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000.00) OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2006A, FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF FIRE STATION FACILITY IMPROVEMENTS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City Council of the City of Fayetteville, Arkansas (the "City") has determined that there is a great need for a source of funds to finance the costs of acquisition, construction and equipping of additional fire station facilities (i) at Routh Park (near the intersection of Crossover and Old Wire Roads) and (ii) at the former Tyson Complex (near the intersection of Huntsville and Happy Hollow Roads) (collective the "Project"); and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 78 to the Constitution of the State of Arkansas ("Amendment 78") and the Local Government Short-Term Financing Obligations Act of 2001, codified as Arkansas Code Annotated (2005 Supp.) Sections 14-78-101 *et seq.* (as from time to time amended, the "Act"), to issue and sell its short-term financing obligations (as defined in the Act) to finance the costs of acquiring, constructing and installing real property or tangible personal property having an expected useful life of more than one year, which short-term financing obligations shall be secured by and payable from the general revenues of the City; and

WHEREAS, as authorized under the provisions of Amendment 78 and the Act, the City has now determined to issue and sell its General Obligation Bonds, Series 2006A, in the aggregate principal amount of not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000.00) (the "Bonds"), in order to provide funding for the Project; and

WHEREAS, the City has made arrangements for the sale of the Bonds to Crews & Associates, Inc., Little Rock, Arkansas (the "Underwriter"), pursuant to the terms of a Bond Purchase Agreement between the City and the Underwriter (the "Bond Purchase Agreement") in substantially the form presented to and before this meeting;

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

Section 1. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 78 to the Constitution of the State of Arkansas and the Act, there is hereby authorized the issuance of bonds of the City to be designated as "General Obligation Bonds, Series 2006A" (the "Bonds"). The Bonds shall be issued in the original aggregate principal amount of not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000), shall mature on July 1 in the years 2007 through 2011, inclusive, and shall bear interest at rates as shall be specified in the Bond Purchase Agreement. The true interest cost of the Bonds to the City, including the interest rates borne by the Bonds and the costs of issuance funded with proceeds of the Bonds, will not exceed _____% per annum, and no Bond will bear a coupon interest rate in excess of _____% per annum. The proceeds of the Bonds will be utilized (i) to finance all or a portion of the costs of the acquisition, construction and equipping of the Project, and (ii) to pay printing, underwriting, legal and other expenses incidental to the issuance of the Bonds. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall be subject to redemption prior to maturity, and shall contain such other terms, covenants and conditions, all as set forth in that certain Trust Indenture dated as of July 15, 2006 (the "Indenture"), by and between the City and _____, as trustee (the "Trustee"), to be entered into by the City and the Trustee in substantially the form submitted to this meeting.

The Mayor is hereby authorized and directed to execute and deliver the Bonds in substantially the form thereof contained in the Indenture submitted to this meeting, and the City Clerk is hereby authorized and directed to execute and deliver the Bonds and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Bonds to be accepted and authenticated by the Trustee. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Kutak Rock LLP, Little Rock, Arkansas ("Bond Counsel"), in order to complete the Bonds in substantially the form thereof contained in the Indenture submitted to this meeting, with such changes as shall be approved by such persons executing the Bonds, their execution to constitute conclusive evidence of such approval.

Section 2. It is affirmed that, pursuant to Amendment 78 and the Act, the debt service obligations of the City with respect to the Bonds shall constitute general obligations of the City, and the total annual payments owed by the City pursuant to the Bonds in each of the City's fiscal years shall be charged against and paid from the general revenues of the City for such fiscal years. As required by Amendment 78 and the Act, the City hereby finds and determines that:

- (a) Each of the Project components to be financed with proceeds of the Bonds has an average useful life in excess of one year; and
- (b) The aggregate nominal principal amount of all obligations of the City under Amendment 78 and the Act, including the Bonds, will at no time exceed five percent (5%) of the assessed value of the taxable real and personal property located within the City, as determined by the last tax assessment completed prior to the date hereof.

Section 3. To prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge the Indenture, and the City Clerk is hereby authorized and directed to execute and acknowledge the Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Indenture to be accepted, executed and acknowledged by the Trustee. The Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the terms of the Bonds. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Indenture in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 4. There is hereby authorized and approved a Preliminary Official Statement of the City, including the cover page and appendices attached thereto, relating to the Bonds. The Preliminary Official Statement is hereby "deemed final" by the City within the meaning of U.S. Securities and Exchange Commission Rule 15c2-12. The distribution of the Preliminary Official Statement is hereby approved. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement, including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City and the Underwriter, is herein referred to as the "Official Statement," and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Official Statement in substantially the form of the Preliminary Official Statement submitted to this meeting, with such changes as shall be approved by such persons, the Mayor's execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

Section 5. In order to prescribe the terms and conditions upon which the Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), by and between the City and the Underwriter, and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Underwriter and Bond Counsel in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 6. In order to provide for continuing disclosure of certain financial and operating information with respect to the City in compliance with the provisions of Rule 15c2-12 of the U. S. Securities and Exchange Commission, the Mayor is hereby authorized and directed to execute a

Continuing Disclosure Agreement to be dated as of the date of its execution (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, and the Mayor is hereby authorized and directed to cause the Continuing Disclosure Agreement to be executed by the Trustee. The Continuing Disclosure Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Continuing Disclosure Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Continuing Disclosure Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Continuing Disclosure Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 7. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Bonds and to effect the execution and delivery of the Indenture, the Bond Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and a Tax Regulatory Agreement relating to the tax exemption of interest on the Bonds, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 8. Kutak Rock LLP, Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bonds.

Section 9. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 16
Fire Stations #3 & #5
Bond Purchase Agreement
Page 6 of 12

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, Finance & Internal Services Director
Marsha Farthing, Interim Finance & Internal Services Director

DATE: May 18, 2006

SUBJECT: Amendment 78 Fire Station (s) Bond Program

Recommendation

Staff recommends approval of the issuance of Amendment 78 five year bonds in the amount of \$3,165,000 to fund the cost of the relocation of Fire Station #5 to Crossover and Old Wire Roads and to construct a new fire station (#3) at the Tyson complex at Huntsville and Happy Hollow Road.

Background

The Citizens of Arkansas approved, at the General Election in 2000, Amendment 78 to the Arkansas Constitution. Amendment 78 provides, in part, authorization for cities to enter into short-term bond issues and capital lease agreements that are supported by the general revenues of the city. City Councils are authorized to execute these debt instruments without a public vote. The Arkansas Constitution limits the debt to no more than five (5) years and to no more than five (5%) per cent of the assessed value of taxable property within the city. The City of Fayetteville approved a Debt Management Policy on November 5, 2002 (Resolution 173-02) that established the policy and underlying analysis that must be completed prior to initiating any debt agreements.

Discussion

The City has identified the need for an additional fire station at the former Tyson complex and the need to relocate Fire Station #5 from 833 Crossover Road to the intersection of Crossover and Old Wire Roads. The additional station and the relocation of station #5 will improve response times to calls-for-service to newly developed and existing properties. The construction of these two stations is estimated to be \$3,100,000. The City Council approved Resolution No. 18-06, a resolution of intent to reimburse for the construction and equipping of these fire stations in February 2006. Principal and interest payments for the bonds have been budgeted with a portion of the existing city sales tax used for capital for a period of five years.

RESOLUTION NO. 18-06

**A RESOLUTION OF INTENT REGARDING THE REIMBURSEMENT
OF CERTAIN COSTS AND EXPENSES INCURRED IN CONNECTION
WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF
FIRE STATION IMPROVEMENTS WITHIN THE CITY**

WHEREAS, the City of Fayetteville, Arkansas (the "City") desires to obtain financing for the acquisition, construction and equipping of certain fire station facilities (the "Project"); and

WHEREAS, the total costs of the Project, including expenses associated with the financing thereof, are presently estimated to be approximately \$3,431,000.00; and

WHEREAS, the City does not currently have adequate funds on hand to pay the estimated costs of the Project and related expenses; and

WHEREAS, the City presently intends to obtain the necessary funds to accomplish the Project and to pay related expenses through the issuance of tax-exempt indebtedness in principal amount not to exceed \$3,000,000; and

WHEREAS, the purpose of this Resolution is for the City to declare its "official intent" to reimburse itself for certain preliminary costs (incurred by or on behalf of the City and related to the Project) pursuant to Section 1.150-2 of the Regulations of the U.S. Department of Treasury promulgated pursuant to the provisions of the Internal Revenue Code of 1986, as amended;

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

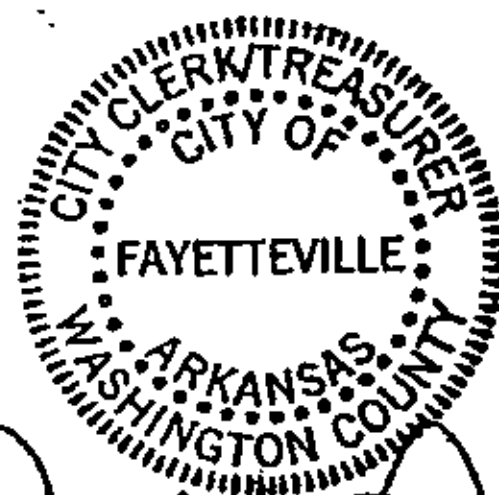
Section 1: That the adoption of this Resolution is intended as the City's "official intent" to reimburse itself from the proceeds of tax-exempt indebtedness for preliminary costs of the Project and related expenses advanced by the City.

PASSED and APPROVED this 7th day of February, 2006.

ATTEST:

By:

SONDRA SMITH, City Clerk



APPROVED:

By:

DAN COODY, Mayor



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: January 19, 2006

SUBJECT: Amendment 78 Fire Station (s) Bond Program: Approval of Resolution of Intent to Reimburse

Recommendation

Staff recommends approval of the resolution of intent to reimburse.

Background

The Citizens of Arkansas approved, at the General Election in 2000, Amendment 78 to the Arkansas Constitution. Amendment 78 provides, in part, authorization for cities to enter into short-term bond issues and capital lease agreements that are supported by the general revenues of the city. City Councils are authorized to execute these debt instruments without a public vote. The Arkansas Constitution limits the debt to no more than five (5) years and to no more than five (5%) per cent of the assessed value of taxable property within the city. The City of Fayetteville approved a Debt Management Policy on November 5, 2002 (Resolution 173-02) that established the policy and underlying analysis that must be completed prior to initiating any debt agreements.

On November 7, 2002 the City of Fayetteville advertised and solicited requests for qualifications (RFQ) for Bond Counsel Services and solicited requests for proposals (RFP) for Underwriter Services and Leasing Services. The City of Fayetteville Debt Committee (established by Resolution 173-02) received the responses to the request for qualifications and request for proposals in January, 2003. The Debt Committee selected Gordon Wilbourn of Kutak Rock as Bond Counsel, Dennis Hunt of Stephens, Inc and Crews and Associates as Bond Underwriter(s) and Bank of America (BOA) Leasing for leasing services. Agreements with each of these service providers will be developed and submitted to City Council for consideration and approval.

Discussion

The City has identified the need for an additional fire station and relocation of another fire station to improve response times to calls-for-service.

Approval of the Resolution of Intent to Reimburse will enable the City to pay for services rendered in developing these fire station projects and when Amendment 78 bonds are issued, submit invoices to the bond trustee for reimbursement. The Amendment 78 bond issue will be funded from a portion of the existing city sales tax used for capital.

FAYETTEVILLE, ARKANSAS
AMENDMENT 78 FINANCING
Series 2006

TIMETABLE OF EVENTS

May-06						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June-06						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July-06						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

√	DATE	DAY	EVENT	RESPONSIBILITY
	May 16	Tues	Distribute drafts of Bond Ordinance, Trust Indenture and Bond Purchase Agreement	BC
	May 22	Mon	Comments due on Preliminary Official Statement	All Parties
	May 25	Thurs	Distribute draft of Preliminary Official Statement	BC
	May 26	Fri	Distribute draft of revised Preliminary Official Statement	BC
	June 1	Thurs	Comments due on draft of revised Preliminary Official Statement	All Parties
	June 6	Tues	City Council Meeting to Discuss Financing	I
	June 12	Mon	Finalize POS and send to printer	BC, UW
	June 13	Tues	Pricing discussion	I, UW
	June 19	Mon	Offer bonds Commitment given to purchase bonds	UW
	June 20	Tues	City Council meeting to adopt Bond Ordinance and sign Bond Purchase Agreement	I, UW
	June 23	Fri	Publish Bond Ordinance Distribute draft of Official Statement	BC
	June 27	Tues	Finalize Official Statement and send to printer	BC
	June 29	Thurs	Distribute draft of closing documents	BC
	July 6	Thurs	Comments due on draft of closing documents	All Parties
	July 11	Tues	Finalize closing documents	BC
	July 25	Tues	Close Bond Issue	All Parties

I Issuer: City of Fayetteville
BC Bond Counsel: Kutak Rock

TT Trustee: TBA
UW Underwriter: Crews & Associates, Inc



\$3,165,000

City of Fayetteville, Arkansas
General Obligation Bonds
Series 2006

Sources & Uses

Dated 06/01/2006 | Delivered 06/01/2006

Sources Of Funds

Par Amount of Bonds	\$3,165,000.00
Total Sources	\$3,165,000.00

Uses Of Funds

Deposit to Project Construction Fund	3,100,000.00
Total Management Fees	25,000.00
Bond Counsel	25,000.00
Trustee Fees	4,000.00
Miscellaneous	3,500.00
Rounding Amount	3,500.00
Publication Fees	2,500.00
MSRB, PSA, Cusips, DTC Fees	1,500.00
Total Uses	\$3,165,000.00

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

RES.
2/7/06
18-06
Fire Station
Reimbursements

7-Feb-06
City Council Meeting Date

Stephen Davis
Submitted By

FIS Director
Division

Finance & Internal Services
Department

Action Required:

Approval of a resolution of intent to reimburse for City expenses incurred in advance of a Fire Station Construction Bond issue.

This resolution provides the mechanism for the City to be reimbursed for expenses associated with developing replacement and new fire stations from bond proceeds.

Cost of this request	\$0.00	Category/Project Budget	
Account Number		Funds Used to Date	
Project Number		Remaining Balance	\$
Budgeted Item		Budget Adjustment Attached	

Gordon will draft resolution to accompany this agenda item JPD

Stephen Davis
Department Director

1/19/06
Date

Previous Ordinance or Resolution #

Original Contract Date:

D. J. Whit
City Attorney

1/24/06
Date

Original Contract Number:

Stephen Davis
Finance & Internal Services

1/19/06
Date

Received in Mayor's Office
ENTERED
1-19-06
ENTERED
1/24/06

Mayor

Date

Received in City Clerk's Office

Comments: