

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
July 6, 2006**

A meeting of the Fayetteville City Council will be held on July 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**

A. CONSENT:

- 1. Approval of the June 20, 2006 City Council meeting minutes.**

APPROVED.

- 2. Park Land Dedication for Mountain Ranch Phase One:** A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 116-06.

- 3. ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 117-06.

- 4. State and Tribal Assistance Grant (STAG):** A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for sanitary sewer system improvements; designating

the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 118-06.

B. UNFINISHED BUSINESS:

1. **Duncan Associates Water & Wastewater Impact Fee Update:** A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 119-06.

C. PUBLIC HEARINGS:

1. **Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.

THIS ITEM WAS TABLED TO THE JULY 18, 2006 CITY COUNCIL MEETING.

2. **Raze and Removal at 107 East 7th Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 120-06.

D. NEW BUSINESS:

1. **Davis Business Planning:** An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4893.

2. **ANX 06-2020 Hays:** An ordinance annexing that property described in annexation petition ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4894.

3. **RZN 06-2021 Hays:** An ordinance rezoning that property described in rezoning petition RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4895.

4. **ANX 06-2127 Williams:** An ordinance annexing that property described in annexation petition ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4896.

5. **Bossler Contracting, Inc. Contract – Fire Station # 5:** A resolution approving a construction contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire station # 5; and approving a project contingency in the amount of \$117,280.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 121-06.

6. **LSD 06-1997 Divinity Hotel Planning Commission's Appeal:** An appeal of the Planning Commission's decision regarding the denial of a large scale development for the Divinity Hotel on Dickson Street as submitted by The Barber Group.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 122-06.

E. INFORMATIONAL:

4th of July Holiday: July 4, 2006 – City Offices Closed

City Council Tour: None

Meeting adjourned at 10:20 p.m.

Adjourn 10:20 PM

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

8-0

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

8-0

Passed
Res: 116-86
to
118-06

Subject: <i>Duncan & Associates</i>					
Motion To:		<i>Amend NO more \$55,000</i>	<i>Approve Res.</i>		
Motion By:		<i>Ferrell</i>	<i>Jordan</i>		
Seconded:		<i>Reynolds</i>	<i>Marr</i>		
<i>B.I. Unfinished Passed 119-06</i>	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Mayor Coody				

8-0

8-0

Subject: <i>Raze & Removal 95 Cleburn Street</i>					
Motion To:	<i>Tabled to</i>	<i>Next meeting</i>			
Motion By:		<i>Jordan</i>			
Seconded:		<i>Reynolds</i>			
<i>C.I. Public Hearing Tabled to 7/18/06</i>	Rhoads	<i>Absent during the vote</i>			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

7-0

Subject: <i>Raze & Removal 107 East 7th Street</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Reynolds</i>			
Seconded:		<i>Ferrell</i>			
<i>C.2 - Public Hearing</i> <i>Passed</i> <i>120-06</i>	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

Subject: <i>DAVIS Business Planning</i>					
Motion To:		<i>Amend not to exceed \$60,100</i>			
Motion By:		<i>Cook</i>			
Seconded:		<i>Marr</i>			
<i>D.1. New Business</i> <i>Amend</i>	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

Subject: <i>Davis Business Planning</i>					
Motion To:		<i>2nd read</i>	<i>3rd read</i>	<i>Pass</i>	
Motion By:		<i>Jordan</i>	<i>Jordan</i>		
Seconded:		<i>Marr</i>	<i>Marr</i>		
<i>D. 1.</i> <i>New Business</i> <i>Passed</i> <i>4893</i>	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: <i>ANX 06-2020 Hayo</i>					
Motion To:		<i>2nd read</i>	<i>3rd read</i>	<i>Pass</i>	
Motion By:		<i>Lucas</i>	<i>Lucas</i>		
Seconded:		<i>Jordan</i>	<i>Reynolds</i>		
<i>D. 2.</i> <i>New Business</i> <i>Passed</i> <i>4894</i>	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Mayor Coody				

8-0

8-0

7-1

Subject: RZN 06-2021 Hays					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
D.3. New Business <u>passed</u> H895	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: ANX 06-2127 Williams					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Reynolds		
D.4. New Business <u>passed</u> H896	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	✓	
	Mayor Coody				

8-0

8-0

7-1

Subject: <i>Bosler Contracting, Inc.</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Jordan</i>			
Seconded:					
<i>D. 5. New Business passed 128-06</i>	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Reynolds	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Marr	<i>✓</i>			
	Mayor Coody				

8-0

Subject: <i>LSD 06-1997 Divinity Hotel</i>					
Motion To:		<i>Approve Resolution</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Reynolds</i>			
<i>D. 6. New Business passed 122-06</i>	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>N</i>			
	Jordan	<i>N</i>			
	Reynolds	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>N</i>			
	Marr	<i>✓</i>			
	Mayor Coody				

5-3

City Council Meeting Speaker Registration

Date of City Council Meeting 7/6/06

	Speaker's Name (Please Print Clearly)	Phone No.	Agenda Item
1	Bonnie Dutton	442-3625	Divinity
✓ 2	Jeff Williams	251-7780	Divinity
3	Pamela Melody	521-4981	Divinity
4	Ryan O'garra	871-1515	Divinity
5	Howard Hamilton	442-0150	"
6	Kinley Johnson	271-2900	"
✓ 7	Cyrus Young	443-4716	"
✓ 8	DOT NEELY	236-8125	DIVINITY
9	Scott E. Bowman	443-4924	DIVINITY
10	Dallas Breed	871-0453	Divinity
11	Allyson Twiggs	521-5770	Divinity
12	KEN STOUT	236-1010	DIVINITY
13	Barkara Dillm	442-3628	Divinity
14	Jim Fournier	571-2312	Divinity
15	FRAN Alexander	442-5307	Divinity
16	FRANK Broyles		Divinity
17	Cathy Foraker	251-7545	Divinity
18	Victoria Scudder	236-0980	"
19	Al K...	443-2746	Divinity
20	✓ Loup	200-0365	Divinity
21	Bill Ramsey	521-1710	Divinity
22	HANK Broyles	283-8150	Divinity
23	Sara Hushel	527-9800	Divinity
24	Helena Gadison	927-0211	Divinity
25	Steve Rust	442-8885	For Divinity
	JESSE BARR	634-7300	Divinity

Victoria Scudder

Bill Ramsey

City Council Meeting Speaker Registration

Date of City Council Meeting 7/6/06

	Speaker's Name (Please Print Clearly)	Phone No.	Agenda Item Speaking On
1	Mike Dennis	492-8380	9/1/06
2	Matthew Griffith	474-6484	
3	J.B. Hays	571-1679	Divinity
4	Edward Heglmacher	521-7777	"
5	Sharon Davis	442-5675	Divinity
6	Cherim Goodman Strauss	587-8039	Divinity City
7	ERIC LLOY	443-5151	"
8	Lynn Ellen "Sister" Scott	501-7762	
9	Rebecca LeTourette	444-8995	Divinity
10	Dr. Vina Pasaru	443-9349	Divinity
11	Jordan Garner	575-9350	Divinity
12	Dave Westendorf	530-1444	Divinity
13	Ramsay Ball	443-4734	DIVINITY
14	Bruce Welter	442-9123	DIVINITY
15	Chia King	571-7847	
16	Marlene Kunette	441-8404	Divinity
17		444-0774	DIVINITY
18			
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25			

City Council Meeting Speaker Registration

Date of City Council Meeting 7/6/06

	Speaker's Name (Please Print Clearly)	Phone No.	Agenda Item Speaking On
1	John Hatfield	521 211	ISA, 06-1997
2	Lane Davis	871-4747	Divinity Project
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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
July 6, 2006**

A meeting of the Fayetteville City Council will be held on July 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**

A. CONSENT:

- 1. Approval of the June 20, 2006 City Council meeting minutes.**
- 2. Park Land Dedication for Mountain Ranch Phase One:** A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.
- 3. ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.
- 4. State and Tribal Assistance Grant (STAG):** A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

B. UNFINISHED BUSINESS:

1. **Duncan Associates Water & Wastewater Impact Fee Update:** A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

C. PUBLIC HEARINGS:

1. **Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.
2. **Raze and Removal at 107 East 7th Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

D. NEW BUSINESS:

1. **Davis Business Planning:** An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.
2. **ANX 06-2020 Hays:** An ordinance annexing that property described in annexation petition ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres.
3. **RZN 06-2021 Hays:** An ordinance rezoning that property described in rezoning petition RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.
4. **ANX 06-2127 Williams:** An ordinance annexing that property described in annexation petition ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres.
5. **Bossler Contracting, Inc. Contract – Fire Station # 5:** A resolution approving a construction contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire station # 5; and approving a project contingency in the amount of \$117,280.00.
6. **LSD 06-1997 Divinity Hotel Planning Commission's Appeal:** An appeal of the Planning Commission's decision regarding the denial of a large scale development for the Divinity Hotel on Dickson Street as submitted by The Barber Group.

E. INFORMATIONAL:

4th of July Holiday: July 4, 2006 – City Offices Closed

City Council Tour: None

Agenda Session
6-27-06

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
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
July 6, 2006**

A meeting of the Fayetteville City Council will be held on July 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 given by Johanson Group. – Agenda Session Only

A. CONSENT:

- 1. Approval of the June 20, 2006 City Council meeting minutes.**
- 2. Park Land Dedication for Mountain Ranch Phase One:** A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

B. UNFINISHED BUSINESS:

- 1. Duncan Associates Water & Wastewater Impact Fee Update:** A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

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1. **Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.
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D. NEW BUSINESS:

1. **ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.
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E. INFORMATIONAL:

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

Add: Divinity Hotel Appeal NB - Last NB#6
RZN 06-2021 Hays NB#3
ANX 06-2020 Hays NB#2
ANX 06-2127 Williams NB#4
Bossler Contracting, Inc. NB#5

● Pre - Agenda Session ●

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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Ward 3 Position 2 - Robert Ferrell
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Tentative Agenda City of Fayetteville Arkansas City Council Meeting July 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 given by Johanson Group. – Agenda Session Only

A. CONSENT:

1. Approval of the June 20, 2006 City Council meeting minutes.

NB. **② State and Tribal Assistance Grant (STAG):** A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U. S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

3. Park Land Dedication Resolution for Mountain Ranch Phase One: A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

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D. NEW BUSINESS:

- New Resolution*
1. **ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.
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E. INFORMATIONAL:

City Council Tour: July 5, 2006 - 4:30 PM ??

July 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

From: "Nancy Beth Williams" <nwilliams@tcainternet.com>
To: <bthiel@cox.net>, <Ward2_pos1@ci.fayetteville.ar.us>, <donmarr@swbell.net>, <rrhoads@hallestill.com>, <steve@fayetteville.com>, <Ward3_pos2@ci.fayetteville.ar.us>, <DCOODY@ci.fayetteville.ar.us>, <Ward4_pos1@ci.fayetteville.ar.us>, <bramsey@fayettevillear.com>, <ljordan7@hotmail.com>
Date: Wed, Jul 5, 2006 3:55 PM
Subject: MESSAGE FROM JIM BLAIR REGARDING THE DIVINITY PROJECT

Members of the City Council:

This is an unsolicited note in support of the Divinity Project. I have no involvement or ties to the Barber Group. I supported the efforts of the consultants we brought in to help us revitalize Fayetteville, especially Downtown. I thought it was a total consensus that we needed more residents in Downtown, people who wanted to live in the wonderful mixed used of Downtown. This requires high rises with condos. This requires parking. Dickson Street needs a hotel. I thought the Divinity Plan, even before trimming, was doing exactly what the consensus of outside experts and participating citizens agreed should be done. I walked down School Street and up Dickson 5 days a week from 1941-49. I hung out on Dickson Street as a young adolescent from 1949 through college and law school until 1957. I worked on Dickson Street, got my hair cut on Dickson Street, worshipped on Dickson Street. I have watched it evolve and become better and better. We can't go back and we can't hold the status quo. We can let Dickson Street evolve into an even more wonderful experience than it is now. Not a week goes by when I am in town that I'm not on Dickson. I know you can't consider that building the Divinity Building is equivalent to giving our schools a one percent millage increase but somehow we need to let Fayetteville develop to keep pace with Springdale, Rogers, Bentonville. Not all development is bad. This is not. I hope you see it my way.

Respectfully,

Jim Blair

NANCY BETH BLAIR

EXECUTIVE ASSISTANT

PH: 479-756-2545

FAX: 479-756-2546

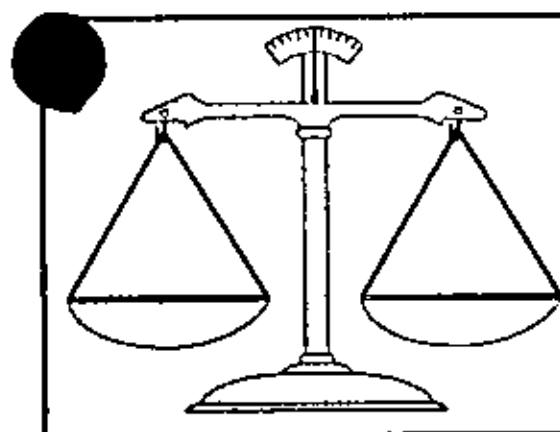
CELL: 479-200-4151

E-MAIL ADDRESS: <mailto:NWILLIAMS@TCAINTERNET.COM>
NWILLIAMS@TCAINTERNET.COM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

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

DATE: **July 7, 2006**

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

1. **Park Land Dedication for Mountain Ranch Phase One:** Resolution approving Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of required Park Land Dedication for Mountain Ranch Development Phase One;
2. **ADM 06-2152:** Resolution approving ADM 06-2152 amending Master street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mt. Comfort Road as described and depicted in attached maps;
3. **State and Tribal Assistance Grant (STAG):** Resolution authorizing Mayor to apply for and accept a State & Tribal Assistance Grant from U.S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as City's authorized representative in all matters relating to procurement and administration of said grant; and approving budget adjustment recognizing \$477,900.00 in grant revenues;
4. **Duncan Assoc. Water & Wastewater Impact Fee Update:** Resolution accepting a proposal from Duncan Assoc. in amount of \$110,000.00 to update existing water and wastewater impact fees, to calculate fees for collection system,

and negotiate contracts w/cities of Elkins, Farmington and Greenland to pay for and provide potential water and wastewater impact fees within their corporate boundaries; and limiting City's expenditures to an amount not to exceed \$55,000.00;

5. Raze & Removal at 107 East 7th St.: Resolution ordering razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in City of Fayetteville;

6. Davis Business Planning: Ordinance waiving competitive bidding procedures and approving contract w/Davis Business Planning in amount not to exceed \$60,100.00; and budget adjustment of \$45,000.00;

7. ANX 06-2020: Ordinance annexing property described in ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres;

8. RZN 06-2021: Ordinance rezoning property described in RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre;

9. ANX 06-2127: Ordinance annexing property described in ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres;

10. Bossler Contracting, Inc. Contract Fire Station #5: Resolution approving construction contract w/Bossler Contracting, Inc. in amount of \$1,466,000.00 for construction of Fire Station #5; and approving project contingency in amount of \$117,280.00;

11. LSD 06-1997 Divinity Hotel Planning Commission's Appeal: Appeal of Planning Commission's decision regarding denial of large scale development for Divinity Hotel on Dickson Street as submitted by Barber Group.

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, Elizabeth Wax, 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:

July 3, 2006

Publication Charge: \$199.29

Subscribed and sworn to before me

This 5 day of July, 2006.

Notary Public



My Commission Expires:

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

RECEIVED

JUL 07 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on July 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**

A. CONSENT:

- 1. Approval of the June 20, 2006 City Council meeting minutes.**
- 2. Park Land Dedication for Mountain Ranch Phase One:** A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.
- 3. ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.
- 4. State and Tribal Assistance Grant (STAG):** A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

B. UNFINISHED BUSINESS:

- 1. Duncan Associates Water & Wastewater Impact Fee Update:** A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

C. PUBLIC HEARINGS:

- 1. Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.
- 2. Raze and Removal at 107 East 7th Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

D. NEW BUSINESS:

- 1. Davis Business Planning:** An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.
- 2. ANX 06-2020 Hays:** An ordinance annexing that property described in annexation petition ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres.
- 3. RZN 06-2021 Hays:** An ordinance rezoning that property described in rezoning petition RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.
- 4. ANX 06-2127 Williams:** An ordinance annexing that property described in annexation petition ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres.
- 5. Bossler Contracting, Inc. Contract - Fire Station # 5:** A resolution approving a construction contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire station # 5; and approving a project contingency in the amount of \$117,280.00.
- 6. LSD 06-1997 Divinity Hotel Planning Commission's Appeal:** An appeal of the Planning Commission's decision regarding the denial of a large scale development for the Divinity Hotel on Dickson Street as submitted by The Barber Group.

E. INFORMATIONAL:

**4th of July Holiday: July 4, 2006 - City Offices Closed
City Council Tour: None**

RECEIVED

JUL 07 2006

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**

Aldermen

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
June 20, 2006**

A meeting of the Fayetteville City Council was held on June 20, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Reynolds

Pledge of Allegiance

Police Department Presentation Recognizing 12 members of the Fayetteville Citizen's Police Academy – Sergeant Shannon Gabbard

Sergeant Gabbard presented the members of the Fayetteville Citizen's Policy academy a certificate and a shirt for their participation in the academy. The following were presented with Certificates and a shirt: William Jackson, Evelyn Jackson, Marie Mitchell, Marvin Mitchell, Peggy Harp, Joe Woessner, Fred Cusanelli, Mya Fulton, Richard Guthrie, Bob Reilly, Trish Hollenbeck, and Danette Williams.

Mayor Coody: I hope that all the people that participated in the Police Academy recognized the level of professionalism that our Police Department has.

Nominating Committee Report: Kyle Cook, Chairman

Alderman Cook gave the Nominating Committee Report and thanked Amber Wood in the City Clerk's office for typing the report . A copy of the report is attached.

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

CONSENT:

Approval of the June 6, 2006 City Council Meeting Minutes.

Approved

Rescind Res. 82-06 – McClelland Consulting Engineers Task Order #13: A resolution rescinding the budget adjustment approved by Resolution No. 82-06 of May 2, 2006.

Resolution 110-06 as Recorded in the Office of the City Clerk.

Professional Turf Products of Tulsa – Bid # 06-38: A resolution awarding Bid # 06-38 and approving the purchase of two (2) multi-deck turf mowers from Professional Turf Products of Tulsa in the amount of \$43,987.00 for use by the Parks & Recreation Division.

Resolution 111-06 as Recorded in the Office of the City Clerk.

Radisson Hotel Parking Space Lease Agreement: A resolution approving a lease agreement with Radisson Hotel Fayetteville for the use of 178 parking spaces on Level One and Three of the Meadow Street Municipal Parking Garage.

Resolution 112-06 as Recorded in the Office of the City Clerk.

Alderman Ferrell moved to approve the Consent Agenda as read. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

UNFINISHED BUSINESS:

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 at the June 6, 2006 City Council meeting to the June 20, 2006 City Council meeting.*

Jeremy Pate, Director of Current Planning: The bridge will be constructed prior to any homes being built, it will be constructed with Phase one. That will be an additional condition of approval should you chose to affirm the Planning Commission's decision to uphold this

preliminary plat. This was also tabled to discuss the connectivity issue and street connections to Woodlark and Raven. As it currently stands this project is connecting the two existing street stub outs, one to Woodlark Lane and one to Raven. Staff's position is that both connections are warranted and both are supported by the City Council's policy of connectivity. We are recommending both connections at this time.

Alderman Jordan: This is something Shirley and I have worked on with the neighborhood, owners and the developers and over the course of the last few weeks we have come to some compromises. The neighborhood, owners and developers are alright with making the connection through Raven and leaving the connectivity off Woodlark. The bridge will be installed and no houses will be built until the bridge is built. That seems to be agreeable to all parties at this point in time.

Alderman Lucas: When you look at this development you have connectivity. We still need to correct Mount Comfort, there needs to be improvements to Mount Comfort.

Wayland Harris, speaking on behalf of the residents of Bird Haven Subdivision: We are in agreement with what has been worked out. We would like to ask for approval of this tonight.

Bill Overby a resident Woodlark Lane: Woodlark was never considered to be a through street. I appreciate connectivity, I believe we have it and I would strongly urge you to consider the recommendation of Alderman Jordan.

Rick Reed, Woodlark Lane: At no point under any circumstance is any additional traffic welcomed to Bird Haven. You have north and south access through Salem Road and Deane Solomon. We urge you to please not allow this to happen.

City Attorney Kit Williams: In speaking to Alderman Jordan earlier he indicated that a possible solution had been arrived at so I prepared a resolution that would grant the appeal and approve the preliminary plat as slightly modified. It would make Raven the north south connection but not Woodlark. We also need to incorporate the language that Jeremy has that would require the building of the bridge prior to the sale of any house lot. A sidewalk would go where the street is currently platted.

A revised resolution was passed out to the City Council.

Alderman Cook: I always support connectivity but I certainly respect the Aldermen and their work on this issue, they have come to a good solution.

Alderman Lucas moved to approve the revised resolution as prepared by City Attorney Kit Williams. **Alderman Jordan** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Reynolds** was absent.

Resolution 113-06 as Recorded in the Office of the City Clerk.

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 ordinance was left on the first reading at the June 6, 2006 City Council meeting.*

City Attorney Kit Williams: The petitioner has decided to request a different rezoning.

Jeremy Pate: That is correct. The applicant has changed their request to a C-1 zoning.

Alderman Jordan moved to amend the ordinance by changing the zoning to C-1. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4887 as Recorded in the Office of the City Clerk.

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 ordinance was amended and left on the first reading at the June 6, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning and Development Management Director: At your last meeting you indicated that you would like our Annexation Study Committee to meet with Farmington. They contacted us and we met. We asked Farmington what they would like the Fayetteville City Council to know with regard to their recommendation for an annexation line between the two cities. At our last Council meeting, City of Farmington Alderman Ernie Penn, indicated that if someone wants to be annexed into Fayetteville they would agree to allow that to happen.

Mr. Conklin showed the Council a map with the proposed annexation area as requested by the City of Farmington.

You also made a motion to have the Special Election during the General Election. I believe the Election Commission is here to discuss some of those issues with that election date. Staff would

recommend not placing the annexation election with the election for the wastewater treatment plant or the street bond program election.

Alderman Lucas: I asked Farmington if there was any room for negotiation and they said there was not.

Alderman Ferrell: How many acres will be included in the annexation election, if we went with what Farmington wanted as opposed to what we initially started out with.

Tim Conklin: There would be around 500 acres less. Tim showed the City Council on the map where Fayetteville can grow to in the future on the west side.

Alderman Lucas: We studied this and looked at all aspects of it. It is growing out there and would be a perfect place to put a commercial node and this area would service it. We are going to provide the services for this area so it should be in the City. We as a task force felt this was the appropriate area to bring in.

A discussion followed on the proposed annexation area.

John Burrow, Chairman of the Washington County Election Commission: We are here to ask you to help us out with this election. We are implementing a whole new scheme of things in election technology and the whole State of Arkansas is having an interesting experience with that. We are still running kind of scared for the General Election in November. It would be very desirable to have this election in December. That would enable us to get all of the other elections out of the way. You will make our job a whole lot easier for the General Election if we don't have this election going on during it. The biggest problem that we have with elections is the confusion the voting community has about where they are suppose to go and vote. We could potentially have a lot of residents who are confused about whether or not they are qualified to vote in the annexation election waiting in line for a considerable amount of time and then having to call the County Clerk's office. It would be a stressful experience for our polling places.

Alderman Thiel: The money for these elections comes out of the City Clerk's budget. How many elections did you have budgeted.

Sondra Smith, City Clerk/Treasurer: I budgeted for one special election and the General Election. The Library's Special Election was paid for with the money budgeted for a special election.

Alderman Thiel: We are going to have the bond election which was not budgeted, would it be better to push this annexation election into next years budget.

Sondra Smith: That is up to the Council. We have seen an increase in the cost of elections so it might be better to pay for it this year.

Mayor Coody: We can always appropriate the money out of the General Fund surplus.

Alderman Thiel moved to amend the date for the Special Election to December 12, 2006. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Alderman Lucas: With this intent to annex does that protect that area from anyone else annexing it?

City Attorney Kit Williams: My feeling is that probably the actual act of annexation is what controls. When it becomes annexed then no other city can come back and get it.

Alderman Marr: Is there any other date earlier than December 12th that we can consider.

Alderman Lucas: That is developing out there and if we want to designate a commercial node we need to move forward.

Alderman Thiel moved to reconsider the December 12, 2006 Special Election date. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Alderman Thiel moved to amend the date for the Special Election to October 10, 2006. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Alderman Cook: I think annexation is a mistake. Our Police and Fire Departments will need more money we will have to extend sewer service and trash service. I do not think annexation is a good idea.

Alderman Marr: I think the citizens are going to decide if this is a good or bad thing, I am going to support the election for the citizens to help us make that decision.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Cook voting no. Alderman Reynolds was absent.

Ordinance 4888 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Amend Chapter 72 – Parking Garage Rate Adjustment: An ordinance amending § 72.58 (I), (1), City Parking Garage on Meadow Street, to adjust per visit rates.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4889 Recorded in the Office of the City Clerk.

Duncan Associates Road Impact Fee Study: A resolution to accept and adopt the May 2006 Road Impact Fee Study by Duncan Associates.

Tim Conklin: What is before you this evening is to adopt the Road Impact Fee Study that was updated in May, 2006. You are just adopting the study. The next step would be for our City Attorney's office to draft an Impact Fee Ordinance to be considered by the City Council. Our City Attorney has placed in the resolution a statement that impact fees if enacted will not include the right of way acquisition cost.

Alderman Jordan: This has been through the Street Committee and we did agree to the study.

Alderman Jordan moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed 6-1. Alderman Ferrell voting no. Alderman Reynolds was absent.

Resolution 114-06 as Recorded in the Office of the City Clerk.

Duncan Associates Water & Wastewater Impact Fee Update: A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries.

Tim Conklin: I am working with the Mayors of three cities to have an agreement signed. The City Attorney's office has finalized that agreement and it has been sent to Elkins and Farmington. I will have it to Greenland tomorrow. I would ask that this be tabled until I can bring forward the actual contract.

Alderman Ferrell: Tim I appreciate you going forward and visiting with the Mayors.

Alderman Cook moved to table the resolution to the July 6, 2006 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

This resolution was tabled to the July 6, 2006 City Council meeting.

ADM 06-2093 - Springwoods C-PZD Amendment: An ordinance to amend the approved Commercial Planned Zoning District titled C-PZD 03-8.00, Springwoods, located at I-540 and Hwy 112, containing approximately 289.26 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The staff and the Planning Commission are recommending this amendment. This would allow for three uses within the Use Unit 4, elder care, hospital and dormitory. Lot 6 was planned as a commercial type development lot and all of the use units for typical commercial developments have already been approved. Use Unit 4 Cultural and Recreational Facilities was not one of those and the applicant is indicating they would like to develop something that would fall within that specific use unit.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4890 Recorded in the Office of the City Clerk.

Special Election Capital Sales Tax Extension: An ordinance calling for a Special Election on September 12, 2006 to extend the current three quarter ($\frac{3}{4}$) cent Capital Sales Tax and authorize a one quarter ($\frac{1}{4}$) cent Capital Sales Tax for a Total Sales Tax of one (1) cent, issue bonds and short-term debt to pay for additional cost of the Waste Water System Improvement Program and for Phase 1 of the Transportation Improvement Program as recommended by the Street Committee and the Water and Sewer Committee.

City Attorney Kit Williams: The draft that we handed out had some blanks in it so we fine tuned it. We handed one out tonight that says final on the top of it. I would like a motion to amend the draft ordinance.

Alderman Jordan moved to amend the Draft Version of the ordinance to the Final Version of the ordinance. Alderman Rhoads seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan 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 Reynolds was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4891 Recorded in the Office of the City Clerk.

Planning Commission Compensation: An ordinance to amend § 33.108 Compensation of Article VII Planning Commission of the Fayetteville Code to provide that Planning Commissioners shall be compensated.

City Attorney Kit Williams read the ordinance.

Alderman Marr: The City of Fayetteville is the last city in Northwest Arkansas to do this and normally we are a leader in these areas. Benton County pays \$100 a meeting plus mileage, Rogers pays \$300 a month, Springdale pays \$300 a month, Bentonville pays \$3,600 a year and Washington County pays \$75 a meeting. I certainly think our commission is worth this in terms of the value of the position. The amount that I chose was based on where we are today, I do not think it is enough.

Mayor Coody: The Planning Commissioners put in a tremendous amount of time and effort, they take a lot of heat as well. We appreciate all their service. I do think they need to be compensated.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4892 Recorded in the Office of the City Clerk.

Meeting Adjourned at 7:35 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer



Divinty

News

June 15, 2006

Keeping the Low in Lower Broad

Metro planners and preservationists cry foul over the the Westin Hotel plans

by **Christine Kreyling**

Not many American cities larger than Mayberry have low- to mid-rise Main Streets. Public officials, through zoning policies, have typically encouraged developers to proclaim the most important street in town by putting the tallest structures on or near it. Nashville's Lower Broad, however, still retains its historic, small-town scale.

That's in part because, until recently, Broadway marked the edge—not the center—of what was commonly considered downtown. Tall structures went to the north, where the rise in topography accentuated both their prominence and that of the business elite who occupy them. In pre-SoBro days, south of Broadway was reserved for shorter-stature, functional places—machine and auto body shops, fabric outlets, paint stores—not paramount to the city's self-image as the Wall Street of the South. Lower Broad itself—from Fifth Avenue to the Cumberland River—was gritty honky-tonk territory on which the convention center turned its back and to which winos migrated after the Ryman's loss of the Opry in the 1970s.

But as development and land values grow south of Broadway, Lower Broad is no longer an edge between the culture and entertainment campus and the rest of downtown; it's a zipper. That evolution is delivering development pressures to the street.

The latest upscale push (in more ways than one) is on the south block between Second and Third avenues. That's where the Arkansas-based Barber Group and Sage Hospitality of Denver propose to construct a Westin Hotel—designed by JG Johnson Architects, also of Denver—that would rise to 19 stories, or 201 feet. And that has Metro planners and preservationists crying foul.

Because the building site falls within two Metro Development and Housing Agency (MDHA) redevelopment districts, the project must pass through the agency's design review process. And because some of the structures within this block are part of the Broadway National Register Historic District, the design review committee has to consider both general issues of urban design and how the development plan treats these buildings.

block farther off Broadway. He suggested that a ratio comparable to that of the Third and Commerce building or the Hilton Hotel—which would yield a maximum height for Westin of approximately eight stories—would be more appropriate.

The numbers may not work with the lower height. Brandon Rains of the Barber Group says that the development team realizes that "it's a special location and we want high-fives from the city," but that "certain things can't change. The land values, the economic factors dictate the number of rooms and that dictates the height."

It's obvious why the Westin group wants this site. The location offers the best of both worlds, wedged between the old—Broadway and Second Avenue—and the new rising to the south. It's also obvious why MDHA wants this project. "As long as the design is sensitive to the historic context," Ryan says, "we always want a \$100 million mixed-use development that brings life to the street in downtown."

The question is just how sensitive we as a city want to be. Metro was less than sensitive when it rolled over on its back and spread its legs for Planet Hollywood and NASCAR Cafe to bring life to Broadway. These tourist traps left behind two buildings whose upper levels no longer work because the internal relationship between floors and windows was destroyed—along with their listing on the Register. The Richards & Richards storage warehouse, with its concrete frame infilled with brick and industrial windows, represents one of the few historic building types remaining in SoBro. Its loss would be a serious blow, whether it's on the Register or not.

In the case of the Westin Hotel, what planners must navigate is the ambiance of our Main Street and how high you can go before that ambiance is overpowered.

"There aren't two more important areas for defining downtown's character than Second Avenue and Lower Broad," Bernhardt says. "They're what make Nashville unique. If that's not worth preserving, what is?"

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May 24, 2006

Section: Main News

Edition: 1ST

Page: 1A

Hotel may tower over Lower Broadway

CHAS SISK

STAFF

Developer pushes 20-story Westin - in Nashville, TN

By CHAS SISK

Staff Writer

An Arkansas developer is considering putting a 20-story hotel on Lower Broadway, a proposal that is drawing fire from preservationists who fear it could destroy the character of the city's historic downtown.

The Barber Group, a firm that has built high-profile condominiums in Fayetteville, Ark., has told the city it wants to build a midrise hotel that would stretch along Broadway between Second and Third avenues. A formal development plan has not been submitted, but discussions include tearing down most or all of three buildings that face Broadway.

The hotel, which probably would carry the Westin brand, would be the largest building in the Broadway Historic District, a nationally recognized strip that runs between Second Avenue and Fifth Avenue.

It is also the fourth hotel proposed in the last month, a dramatic shift for a downtown that has not had a new lodging open since 2001.

But some city officials already have deep reservations about the project. At its peak, the building would be five times taller than those that stand on the site now, as tall as any other tower outside the central business district.

Placing a tower there would damage one of Nashville's most popular attractions, the strip of honky-tonks, restaurants and shops -- some buildings date to the late 19th century -- that gives Lower Broadway its character, said Ann Roberts, executive director of the Metro Historical Commission.

Nashville to warrant another hotel."

MORE HOTELS

The Barber Group's proposal for a Westin hotel on Lower Broadway is one of several recent hotel deals under consideration. The others:

- o Local developer Alex Palmer has proposed a 285-room InterContinental at 1600 West End, part of a mixed-use development that would open in late 2008 or early 2009.

- o Developer Tony Giarratana hopes to build a hotel with 150 to 200 rooms as part of his Signature Tower on Church Street, possibly opening in 2009.

- o Baltimore-based Struever Bros. Eccles & Rouse has proposed a 175-room hotel as part of a mixed-use development around the Nashville Sounds new baseball stadium to open in spring 2008.

-- CHAS SISK

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old Capitol Cultural District

Iowa City, Iowa

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Welcome to Downtown Iowa City!**Explore**

The Old Capitol Cultural District and Downtown Iowa City is a place to discover treasures. The tree-lined Pedestrian Plaza features locally-owned specialty stores, a variety of dining options, street vendors and regular entertainment. Enjoy a variety of art and cultural options throughout the year. The Friday Night Concert Series, Iowa Arts Festival and Iowa City Jazz Festival provide festive outdoor music throughout the summer months. The University of Iowa campus, intertwined with downtown, offers museums and other attractions.

Downtown Iowa City is walkable, with over 4,000 parking spaces within two blocks of downtown. Through the Park & Shop/Bus & Shop Program, participating merchants will pay for your parking in any one of three convenient parking ramps, or provide a free bus pass. Take a walk and explore our treasures!



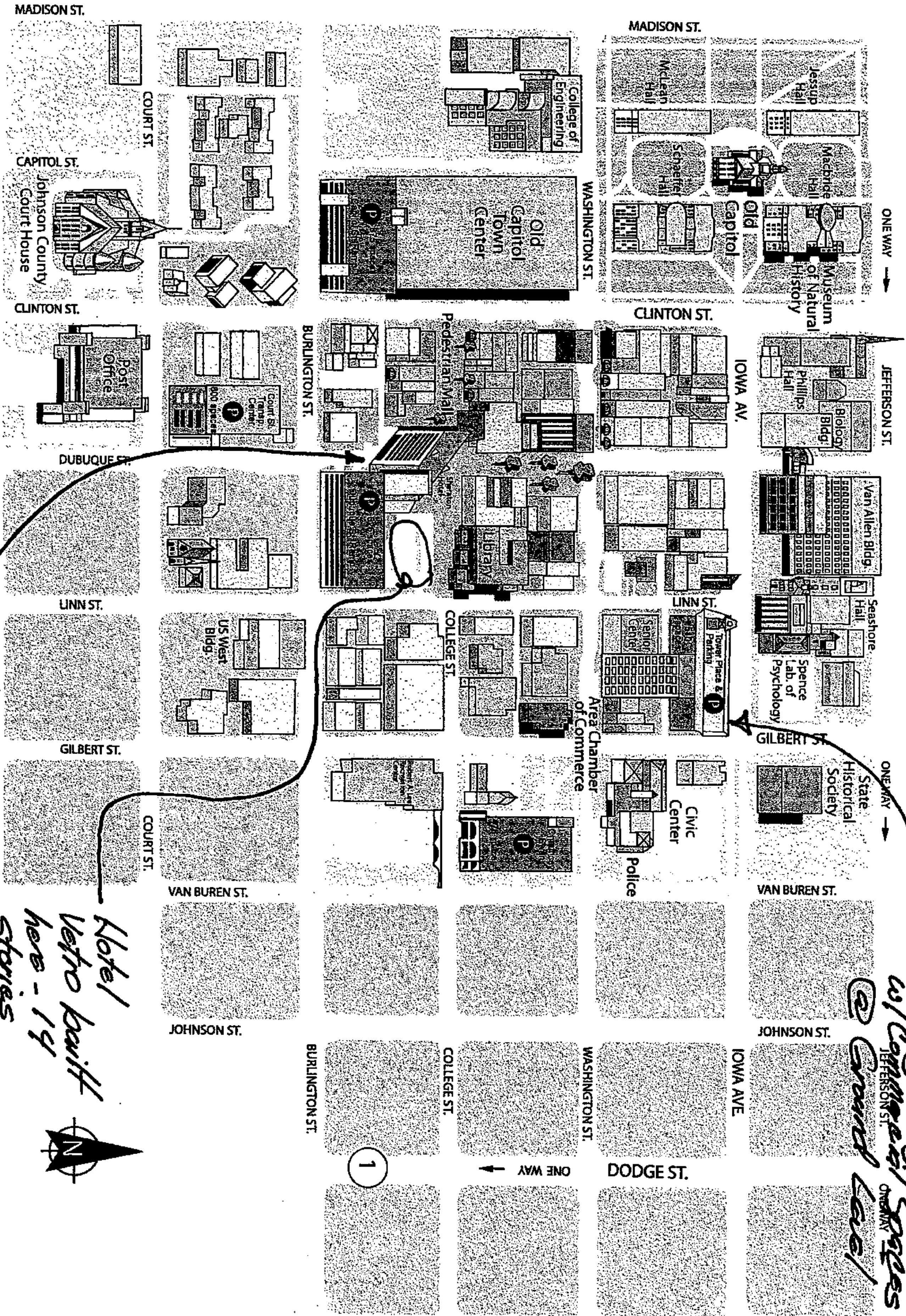
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Site design by JEO.NET.



Downtown Iowa City Parking Ramps

*Parking Garage (Ramp)
w/ Commuter/Student
@ Ground Level*



*Shannon
9 stories +*

*Hotel
Vetro built
here - 14
stories*



old Capitol Cultural District

Iowa City, Iowa

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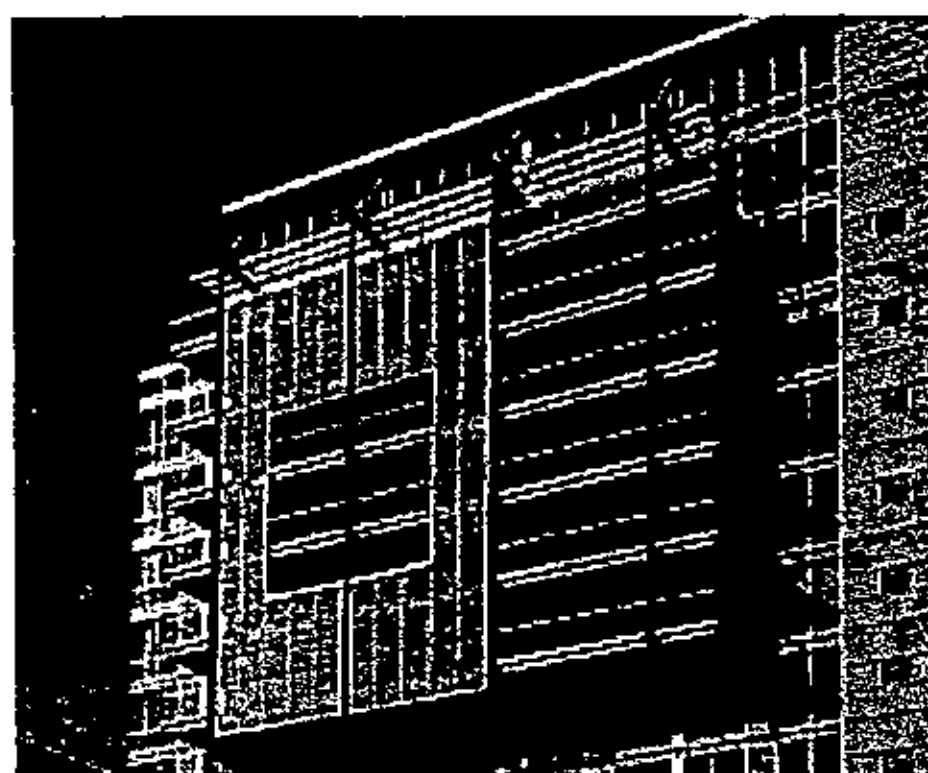
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hotelVetro

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a distinctive all studio suites hotel



** 14 stories tall*

*2 1/2 blocks
from campus*

Iowa City's newest hotel and convention facility will open early 2006, introducing the area to a unique style typically found in large metropolitan areas. hotelVetro, a high-end boutique hotel, will feature upscale nightly and extended living. The hotel will boast distinctive architectural design, luxurious bathrooms, contemporary kitchens, and the highest quality amenities. All Studio Suites will feature kitchenettes, refrigerators, plasma televisions, and exquisite contemporary furnishings. Housing over 15,000 square feet of versatile banquet and pre-function space, hotelVetro will offer a dynamic setting for social and business events. Unique to the area, the facility features a 4,800 square foot open air Roof Garden that offers a magnificent view of the Iowa City Cultural District.

Contact Information:

201 S. Linn St.
 Iowa City, IA 52240
 Telephone: (319) 337-4961
 Website: www.hotelvetro.com



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Iowa City, Iowa

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home

Sheraton Hotel

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Let us connect with you!



** 9 stories
tall
2 blocks
from
Campus*

Boutique storefronts, sidewalk cafés, and a brick-paved plaza with a fountain called Weather Dance help create Iowa City's unique and cultural downtown. In the heart of this "All-American town" lies the newly renovated Sheraton Iowa City Hotel. Located just minutes from the University of Iowa, Hancher Performing Arts Center, and the University of Iowa's Museum of Art you'll find excitement on the streets, outdoor live music, and great shopping right outside our door. Whether you're visiting for business or pleasure, our guest rooms will offer everything you'll need - from High Speed Internet Access to poolside views. The casual American cuisine at Morgan's Bar & Grill is sure to sweep you off your feet as well!

Contact Information:

210 S. Dubuque St.
Iowa City, IA 52240
Telephone: (319) 337-4098
Toll Free: (800) 848-1335
Fax: (319) 337-7037

Website: www.starwoodhotels.com/sheraton/search/hotel_detail.html?propertyID=1282&fromSearch=22XX
E-mail: Sheratoniowacity@meristar.com

Hours:

Check In 3:00 p.m.
Check Out 12:00 p.m.



Tornado Assistance for Area Businesses - Grant Application

Tornado Relief Forum

CLP / CYLP Applications & Information

SEED Brown Bag Lunch Series

2006 Chamber Golf Outing Registration



Welcome to [iowacityarea.com](http://www.iowacityarea.com), your online information resource for the Iowa City Area!

Mission Statement:

The Iowa City Area Chamber of Commerce actively fosters a better business environment.

Within our broader mission, we take as our unique charge:

- Advocating for appropriate public policies
 - Encouraging entrepreneurship
- Serving all members, with a special focus on small business
 - Building regional partnerships

Area Chamber Staff

Area Chamber Committees

- Agriculture
- Ambassadors
- Community Leadership
 - Coralville
 - Education
- Legislative Council
- Local Government
 - North Liberty
- Youth Leadership Program

Iowa City Area Quicklinks

Area Chamber

- News Updates
- Host of the Month
- 2006 Legislative Agenda

Save with Your Membership!

Community Gift Certificate Program

Partner Communities

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- Iowa City
- North Liberty
- Solon

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Community Reference Guide

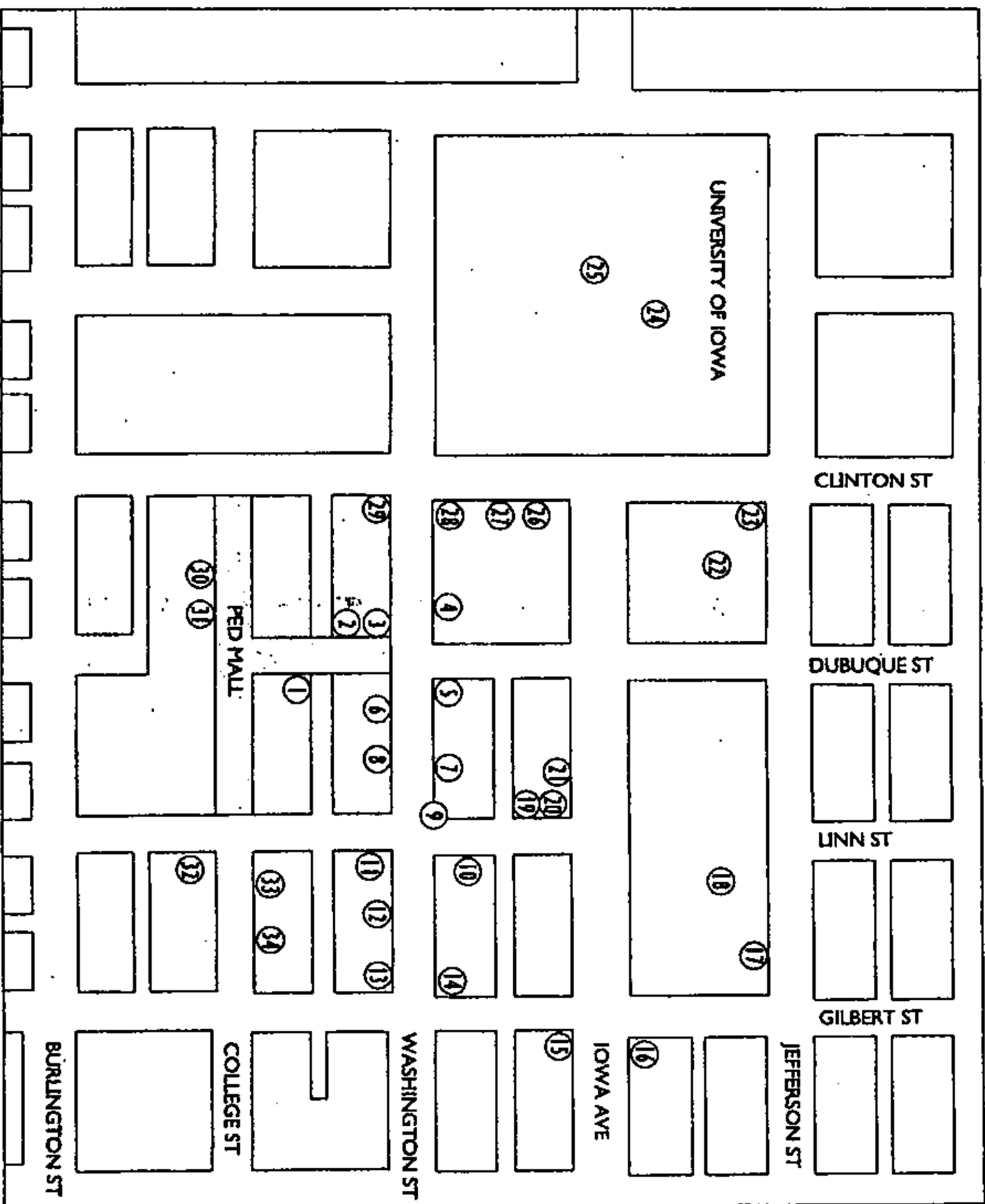
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 - Area Demographics
 - Iowa City Area Map
- Corridor Careers Jobs Site
- Iowa City ranked 3rd most educated metro area
- Iowa City area named a "Super City of the Future"
- Area named "Top Business Opportunity Metro for 2005"
- Click on My Career

Membership Application

Ambassador Application



Historic Downtown Buildings Map



Iowa City, Iowa

Historic Downtown Buildings

- 1 **Blackstone Building**
c 1882, *Italianate*
Originally a two-story carriage and harness manufacturing shop, the third story Mansard roof was added sometime in the late 1880s. A number of businesses have been located in this building including hardware stores, theaters, confectioner, cleaning and pressing shop, and meat market.
- 2 **Franklin Printing House**
1856, *Greek Revival*
This three-story, pre-Civil War, brick building is the oldest commercial buildings in Iowa City. Two prominent newspapers, the *Iowa Capital Reporter* and *Iowa Standard*, associated with the establishment of Iowa City as the state capitol have occupied Franklin Printing House.
- 3 **Jefferson Hotel**
1913 and Late 1920's, *Classical Revival* influence
Built 1913 by a group of prominent Iowa City businessmen, the Jefferson Hotel's "modern" appointments, such as an electric elevator, 250' artesian well, telephones, electric lights, and hot and cold running water, made it a premier hotel in Iowa. Many important public figures stayed here, such as John F. Kennedy during the 1960 campaign.
- 4 **Arcade Building**
1874, remodel 1907, *Early 20th-Century Commercial*
This 1874 building was given a face-lift in 1927, creating the handsome, terracotta facade we see today. From 1926 the west half of the Arcade Building housed Earl Snyder's Dombey Boot Shop. The business took its name from a Charles Dickens novel, *Dombey and Son* in which Dombey was an outstanding and wealthy London shoe merchant.
- 5 **First National Building**
Remodeled 1911, *Classical Revival*
The original bank building at the corner of Dubuque and Washington Streets was remodeled in 1911 in the popular civic style of the day. The post office, Carnegie Library and several University buildings were constructed in the Classic Revival style as well, and clad in Indiana Limestone.
- 6 **Paul-Helen Building**
1910, *Early 20th-century Commercial*
Designed by F. X. Freyder, the Paul-Helen Building was named for the children of the owners, G.W. Schmidt, C.A. Schmidt, and William Kurz. It is one of the four surviving buildings from Iowa City's pre-World War I commercial boom.
- 7 **IXL Block**
1883, *Italianate*
These red brick buildings are good examples of Italianate style commercial buildings. The top cornices and window hoods are constructed of pressed tin. The 218 Washington building still retains its original storefront with cast iron columns.

118 S. Dubuque St.

115 S. Dubuque St.

NR ICHL

129 E. Washington St.

128-130 E. Washington St.

202 E. Washington St.

207-215 E. Washington St.

NR ICHL

218-220 E. Washington St.

- 8 **Englert Theater** **221 E. Washington St.** NR
1913, Commercial and Classical Revival
William Englert, a descendent of the Englert brewing family, constructed this theater during the pre-World War I building boom. William and his family lived in a second-story apartment above the theater lobby. Some of the greatest names and productions touring American playhouses stopped at the Englert including Sarah Bernhart. Performers often stayed in the third-floor sleeping rooms above the Englerts.
- 9 **Historical Marker** **Washington and Linn Streets**
The marker at the northwest corner of Washington and Linn Streets indicates the location of the Iowa City stage coach stop along old Military Road from Dubuque to the northern boundary of Missouri. The stop was authorized by Congress in 1839. Legend has it that Samuel Clemens' opinion of Iowa City was diminished by a spill he took while dismounting a stage coach here in the late 1800's.
- 10 **Old Iowa City Post Office** **28 S. Linn St.** NR
1904 & 1931, Classical Revival
This was the first building constructed specifically as a Post Office in Iowa City. This excellent example of Classical Revival architecture was one of a several civic building located on or adjacent to Linn Street. This building was converted to a senior center in 1974.
- 11 **O'Leary Vellie Garage** **104-116 S. Linn St.**
c/1918, 1924, Craftsman
This building was originally constructed as the Vellie Motors (manufactured in Moline) automobile showroom, repair shop and storage garage. In the second-to-last storefront on the south end you will find the stone "bumpers" indicating the location of the automobile entrance.
- 12 **Old Iowa City Press-Citizen Building** **319 E. Washington St.**
1937, Art Moderne
The Iowa City Press-Citizen was a result of the merger of two daily newspapers in November 1920 -- The Iowa City Press that espoused Democratic Party views and the Iowa City Citizen that offered a Republican Party voice. At the time of the merger the economic realities of operating a newspaper became more significant than party politics.
- 13 **Benevolent Protective Order of Elks Hall** **325 E. Washington St.**
1909, Eclectic - Colonial Revival and Craftsman Styles
The B.P.O.E. Hall was built on the eve of a twenty-year building boom in Iowa City. Before its construction, the Elks Fraternity met at the P.P. Freeman home where they kept a full size elk on the front porch.
- 14 **Boerner-Fry Company Building/Davis Hotel** **332 E. Washington St.** NR
1899, Neo-Classical
Prussian immigrant Emil Louis Boerner constructed this multi-story factory building for the production of vanilla extract, perfumes and pharmaceuticals. Boerner was largely responsible for the establishment of the State University of Iowa's pharmacy department and served as its first dean. In 1922, the building was converted to the Davis Hotel.
- 15 **Unitarian Universalist Church** **10 S. Gilbert St.**
1907, Craftsman and Tudor Revival
This residentially-scaled, Craftsman and Tudor Revival style church is designed without the ecclesiastic ornament (such as a steeple) typical to church architecture. The simple appearance of the church reflects the beliefs of the Unitarian Universalist Association, which was organized in Iowa City in 1841.

16 State Historical Society of Iowa

402 Iowa Ave.

1958, Modern influence

The State Historical Society was established by the Iowa General Assembly in 1857 and operates as a historical research library with extensive manuscript and photo collections. Hours are 9 a.m. to 4:30 p.m. Tuesday-Saturday

17 Old Isolation Hospital

300 block of Iowa Ave.

1916, Renaissance Revival

The State University of Iowa Isolation Hospital was designed by the Des Moines architecture firm Proudfoot and Bird in the same style in which they had designed the SUI Hospital. After the hospital was moved to the west side of the river, the Isolation Hospital was renamed the Music Building. This relatively unaltered building, however its currently unoccupied and its future is uncertain.

18 Old State University of Iowa Hospital

Iowa Ave. between Linn & Gilbert Streets

1897-1914, Renaissance Revival

The center section and southeast wing of the first UI hospital were built at this location in 1897 on a site south of a former city park. The southwest wing was constructed in 1908, northeast wing in 1912 and northwest wing in 1914. In its final form, the building was U-shaped facing Iowa Avenue. The tower and larger portion just beneath it, which has many windows, was the operating theater in the days before reliable and powerful artificial lights were readily available. The hospital remained at this site until 1928, when operations were relocated to the west campus. The old hospital was converted to classroom and laboratory space, and eventually renamed Seashore Hall for Carl Seashore, a pioneer in the field of psychology.

19 Hohenschuh Mortuary

13-15 S.Linn St

1917, Georgian Revival

William P. Hohenschuh operated a mortuary from this location. Hohenschuh was a state leader in the mortuary business as well as president of Hotel Jefferson. He contracted with the Chicago architectural firm H.L. Stevens and Company to design both buildings.

20 G.H. Van Patten House

9 S. Linn Street

c 1874, Italianate

NR ICHL

This rare remaining house within downtown Iowa City, was once one of many stylish residences located on the fringe of downtown. The house's most prominent residents were George H. Van Patten, a carpenter and builder, and his wife Harriet, a dressmaker.

21 People's Steam Laundry Building

225 E. Iowa Ave.

c 1909, Classical Revival

By the turn of the 20th-century, downtown Iowa Avenue had become "laundry row," which included People's Steam Laundry. The laundries employed dozens of young women, including many Bohemians, before and after World War I. "C.O.D. Laundry" can still be seen painted on the side of The Que at 211 Iowa Avenue

22 Hall of Anatomy

100 block of Iowa Ave.

1902, Classical Revival and Beaux-Arts

The well-preserved, six-sided building was designed by Des Moines architects Proudfoot and Bird, who also designed a number of other University buildings in the same Classical Revival and Beaux-Arts style. The Hall of Anatomy originally included an embalming area in the ground level, a lecture hall on the second floor, a dissecting laboratory on the third floor, and a cremating area in the attic level.

23 First Congregational Church

30 N. Clinton St.

1869, Gothic Revival

NR ICHL

The architect of the First Congregational Church, Gordon Randall, learned his craft under the tutelage of Asher Benjamin of Boston before moving to Chicago. During his 34-year career he specialized in schools, churches and courthouses, including the Union Park Congregational Church in Chicago.

24 Old Capitol

Clinton St. at Iowa Ave.

1840-1842, Greek Revival Style

NR

The centerpiece of the Pentacrest, Old Capitol served as the Iowa Territorial Capitol from 1842 until 1846. The building later housed the Iowa State Legislature until 1857 when Des Moines was awarded the state capitol. The building, designed by John F. Rague, was constructed of native stone; however the porticos and cupola are wood, painted to simulate stone. The building underwent restoration in 1920, the early 1970's and 2002. The most recent restoration resulted in the loss of the original dome by fire, but was reconstructed.

25 The Pentacrest

1905-1924

NR

The University of Iowa Pentacrest, bordered by Jefferson, Madison, Washington and Clinton Streets, consists of five University buildings with the Old Capitol serving as the focal point. UI President George E. Maclean (1899-1911) developed the Pentacrest plan in 1905. Besides Old Capitol, the buildings on the Pentacrest are Schaeffer Hall (1902), MacBride Hall (1908), Maclean Hall (1912) and Jessup Hall (1924). The Pentacrest is located on the site designated as Capitol Square in the original 1839 Town Plat of Iowa City.

26 Coast and Sons Building

10-14 South Clinton

c 1895, Renaissance Revival

"From Coast to Coast You'll Find No Better Clothes Than Coasts," was the slogan used by prominent Iowa City retailers William P. Coast, and his sons William O. and Preston. Coast and Sons clothiers operated from this location from 1893 until the about 1935 when the building was occupied by Towners Clothing. Seifert's clothing began operating here in 1962.

27 McDonald Optical

16 S. Clinton St.

c 1883, Late Victorian, Gothic Revival influence

From about 1888 to 1926 this three-story brick building with a decorative cornice housed various confectionaries including an ice cream factory and a bakery, most of which were owned by the Namur family. Namur's Bakery was renowned for its "Snowflake Bread." McDonald Optical has been operating here since 1956.

28 Whetstone's Drug Store

32 S. Clinton St.

c 1868, Italianate

From 1890, the building housed Whetstone's pharmacy, which was operated by John Whetstone and his son Robert. The store was a landmark in the downtown and boasted the motto "Store of Convenience at the Convenient Corner." The store included a soda fountain where "Persian Sherbet" was a featured.

29 Iowa State Bank & Trust Company

102 S. Clinton St.

1912, Early 20th-Century Commercial

This multi-story commercial building was designed by prominent Iowa architects Proudfoot, Bird and Rawson of Des Moines. It was erected as the Johnson County Savings Bank. A number of significant Iowa Citians were trustees of the banks, and the bank's first president was former governor Samuel Kirkwood. During the Great Depression the bank suspended operations and in 1934 the Iowa State Bank and Trust Co. was incorporated.

30 Crescent Block

117-123 E. College St.

c. 1895, Late Victorian

Over the years, this building has housed a number of retail establishments, including Montgomery Ward and Company. The west portion of the building retains its original storefront. A small bay to the east has a unique curved, 1930's, Art Modern storefront, which is clad in black Carrara glass tiles.

31 College Block Building

127 E. College St.

1878, Italianate

NR ICHL

This is the earliest commercial building in Iowa City known to be designed by an Iowa City architect, Chauncey Lovelace. Nearly lost to the Urban Renewal Program in 1978, the designation of the building to the National Register of Historic Place forestalled its demolition. The building was eventually successfully redeveloped for a restaurant and apartments.

32 Old Carnegie Public Library

218 S. Linn St.

1903, Beaux Arts and Classical Revival

ICHL

Designed by Des Moines architecture firm Liebbe, Nourse & Rasmussen, this building was constructed with an endowment from steel baron Andrew Carnegie. Its classically influenced design represents the nation's democratic principles of providing the opportunity to read to all individuals.

33 Iowa City Masonic Temple

312 East College St.

1913, Classical Revival and Craftsman

ICHL

Based on the south face of Schaeffer Hall on the Pentacrest, the Masonic Temple was designed by Cedar Rapids architectural firm of Charles A. Dieman and Company. The building was originally outfitted with both electrical conduit and coal gas piping for lighting due to the uncertainty of electricity as a lighting source at that time. The interior was designed in the Craftsman style and remains largely intact. The original cost of the lot, building and its furnishings was \$50,000.

34 Trinity Episcopal Church

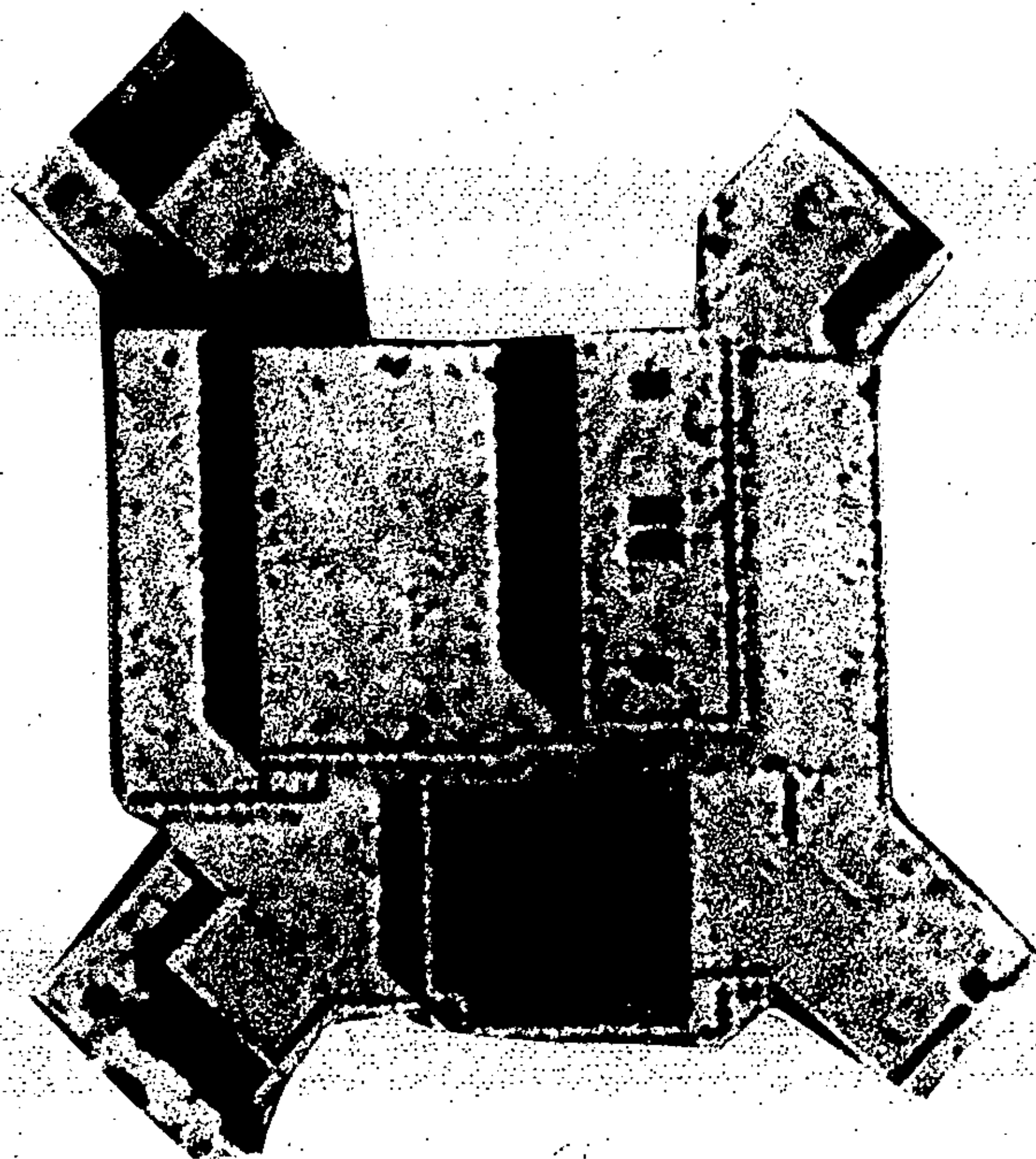
320 E. College St.

1871, Gothic Revival Style

NR ICHL

Constructed for \$6,250 in 1871, the design of Trinity Episcopal Church is attributed to New York architect Richard Upjohn who was an advocate of Gothic Revival Architecture. Trinity was built either directly from plans by Upjohn, or from designs published in his 1852 book, *Upjohn's Rural Architecture*. Only one other church, which is non-extant, in Iowa is credited to Upjohn.





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
July 6, 2006**

A meeting of the Fayetteville City Council will be held on July 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**

A. CONSENT:

- 1. Approval of the June 20, 2006 City Council meeting minutes.**
- 2. Park Land Dedication for Mountain Ranch Phase One:** A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.
- 3. ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.
- 4. State and Tribal Assistance Grant (STAG):** A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

B. UNFINISHED BUSINESS:

1. **Duncan Associates Water & Wastewater Impact Fee Update:** A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

C. PUBLIC HEARINGS:

1. **Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.
2. **Raze and Removal at 107 East 7th Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

D. NEW BUSINESS:

1. **Davis Business Planning:** An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.
2. **ANX 06-2020 Hays:** An ordinance annexing that property described in annexation petition ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres.
3. **RZN 06-2021 Hays:** An ordinance rezoning that property described in rezoning petition RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.
4. **ANX 06-2127 Williams:** An ordinance annexing that property described in annexation petition ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres.
5. **Bossler Contracting, Inc. Contract – Fire Station # 5:** A resolution approving a construction contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire station # 5; and approving a project contingency in the amount of \$117,280.00
6. **LSD 06-1997 Divinity Hotel Planning Commission's Appeal:** An appeal of the Planning Commission's decision regarding the denial of a large scale development for the Divinity Hotel on Dickson Street as submitted by The Barber Group.

E. INFORMATIONAL:

4th of July Holiday: July 4, 2006 – City Offices Closed

City Council Tour: None

**Davis Business Planning, LLC
CONTRACT FOR SERVICES
Project Management and Technical Advisory Services**

This Agreement made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Davis Business Planning, LLC ("Davis Business Planning"), #9 Township, Fayetteville, AR 72702; and

WHEREAS, City of Fayetteville at it's _____, 2006 City Council meeting awarded a contract for project management services and technical advisory services to Davis Business Planning and;

WHEREAS, Davis Business Planning and City of Fayetteville for the consideration hereinafter named, agree and acknowledge that:

Davis Business Planning agrees to provide, in good faith, contract project management services and technical advisory services for each project specified in strict conformity with all sections of the **individual task orders**, and agrees the individual task orders shall form essential parts of this Agreement as if fully contained herein.

The City of Fayetteville shall develop a Task Order detailing the services to be provided. Davis Business Planning shall prepare a fee schedule and deliverable schedule subject to City of Fayetteville approval.

Upon receipt of written City of Fayetteville approval, Davis Business Planning agrees to commence each task order authorized under this Contract on a date to be specified in a written Notice to Proceed notifying Davis Business Planning of the task order within ten (10) business days after receipt of Notice to Proceed; provided however, the parties acknowledge and agree

that Davis Business Planning will not be available until June 26, 2006.

City of Fayetteville agrees to pay Davis Business Planning, in current funds, for the performance of this Contract in accordance with the **fee schedule ("Fee Schedule") incorporated with each task order**. The City of Fayetteville and Davis Business Planning agree that Davis Business Planning shall be compensated for out-of-scope services on a time and material basis in accordance with the attached Fee Schedule.

City of Fayetteville shall designate a city representative for each task order and both the City of Fayetteville and Davis Business Planning stipulate that all direction, management and communication regarding such Task Order shall be through the designated City representative for the aforesaid Task Order.

Davis Business Planning shall submit all written communications and invoices to the City of Fayetteville's aforesaid designated City representative for each task order. City of Fayetteville shall have 30 calendar days to pay such invoices on each Task Order. Davis Business Planning agrees to provide documentation to the City representative as the documentation pertains directly to the invoice submitted to aid the City of Fayetteville in evaluating the completeness and accuracy of monies due pursuant to each submitted invoice.

Davis Business Planning shall submit a written progress report and an electronic version of such report to the City's designated representative on a monthly basis.

Davis Business Planning assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Stephen Davis, representing Davis

Business Planning as the sole point of contact with regard to contractual matters.

Davis Business Planning shall indemnify and hold harmless City of Fayetteville, and its Officers, Directors, Employees, Agents, and other Consultants of each and any of them from and against claims, costs, damages, losses, and expenses, arising out of or resulting from performance of each Task Order, but only to the extent caused in whole or in part by acts or omissions of Davis Business Planning, its Officers, Directors, Employees, Agents, and anyone directly, or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, cost, damage, loss, or expense is caused in part by a party indemnified hereunder, except that no party shall indemnify any other party or person for their own sole negligence. The liability of Davis Business Planning to indemnify and hold harmless the City of Fayetteville shall be limited to the fee income due Davis Business Planning as it pertains to the subject Task Order.

Davis Business Planning agrees to comply with the laws of the State of Arkansas. Notwithstanding statutory exemptions or exclusions, Davis Business Planning agrees to subject itself to the jurisdiction and process of the Courts of Washington County, State of Arkansas as to all matters and disputes arising or to arise under this Agreement and the performance thereof, including all issues relating to liability for taxes, licenses or fees levied by the State. Davis Business Planning irrevocably consents that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract, shall be brought in any court of competent jurisdiction in Washington County, Arkansas.

Davis Business Planning without the express written consent of City of Fayetteville hereunder shall make no assignment or transfer of this Agreement or any right accruing in whole or in part.

Freedom of Information Act: City of Fayetteville 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, the contractor 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 photo coping costs pursuant to the FOIA may be assessed for this compliance.

Changes in scope: Changes, modifications, or amendments in scope that result in changes to the Fee Schedule on the subject Task Order shall not be allowed without a prior formal contract amendment approved by the City of Fayetteville in advance of the services provided based on the change in scope.

A waiver by either party of any breach of the provisions hereof shall not be deemed a waiver of any succeeding breach of such provision or any other provision of this Agreement. Should any term, provision or other part of this Agreement be declared illegal or unenforceable, it shall be excised or modified to conform to the appropriate laws or regulations, and the remainder of the Agreement shall not be affected but shall remain in full force and effect.

No modification or amendment of the terms hereof shall be effective unless written and signed by the authorized representatives of all parties hereto.

This Agreement constitutes the final and complete agreement and understanding between the parties regarding the subject matter hereof. All prior and contemporaneous Agreements and understandings, whether oral or written, are to be without effect in the construction of any provisions or term of this Agreement if they alter, vary or contradict this Agreement.

Davis Business Planning and City of Fayetteville, their successors, executors, administrators and assigns hereby agree to the full performance of the covenants herein contained.

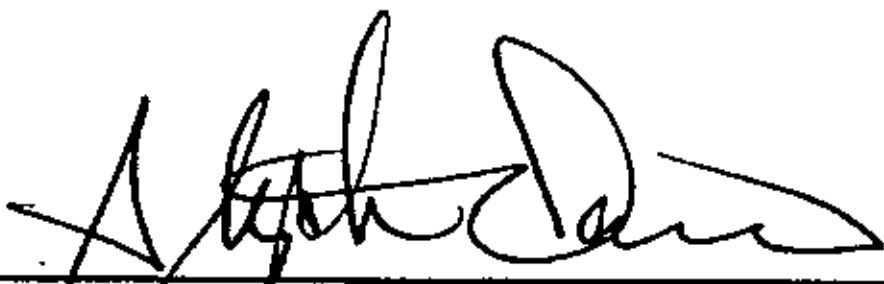
WITNESS OUR HANDS THIS _____ DAY OF _____, 2006.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY _____
DAN COODY, Mayor

ATTEST:

BY _____
SONDRA SMITH, City Clerk



Consultant Firm's Authorized Signature

BY Stephen L. Davis, Principal
PRINTED NAME AND TITLE

ATTEST:



*Put your
logo here*

**City of
Fayetteville**

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Davis Business Planning
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SOW for Services
Rev. 1.0, 5/25/2006

Task Order

STATEMENT OF WORK (SOW) FOR SERVICES

**District Court Software Improvements
Fayetteville Project Number 05003-1**

with

Davis Business Planning, LLC

for

Project Management Services

27 June 2006

~~30 May 2006~~

Introduction

The purpose of this Statement of Work (SOW) is to detail the tasks and responsibilities of Davis Business Planning, LLC (hereinafter, Davis Business Planning) in relation to the contract with the City of Fayetteville, Arkansas (hereinafter, Fayetteville) for contract project management services in-conjunction with the District Court Software Upgrade Project.

1.1 Background

Fayetteville seeks to upgrade the comprehensive case management system from a software system operating on a PICK platform to a software system operating on a Sequel server platform. Resources do not exist within Fayetteville to perform these dedicated project management oversight services. Davis Business Planning will provide Project Management oversight duties to assure the Fayetteville District Court that the software project is completed on the schedule and with the deliverables as agreed to between Fayetteville and MSICG.

2. Scope

This SOW shall apply to the term stated in the Davis Business Planning contract.

- This task order provides for project management oversight services for the District Court Software Upgrade project. These services will generally consist of providing project management oversight for the implementation of a new comprehensive case management system for Fayetteville District Court.

This Task Order shall be deemed to be complete (1) when Fayetteville's comprehensive case management software provider (MSICG, Inc.) certifies the software is installed and operational, the software passes Fayetteville's acceptance testing which will identify and log software bugs, and all identified bugs are satisfactorily resolved to the satisfaction of Fayetteville, which includes regression testing to ensure bug fixes operate as designed and represented by MCISG, Inc.; (2) the District Court staff is adequately trained in the configuration and use of the new software and all required data has been converted from the current PICK case management system to the new MSICG system, or (3) October 13, 2006, which ever occurs first.

- Fayetteville and Davis Business Planning agree the scope of services Fayetteville contracted with MSICG, Inc. shall serve as the basis for development of the base-line scope of services that Davis Business Planning is to provide Fayetteville. Fayetteville District Court management agrees to identify a dedicated Project Team (Fayetteville Project Team) for the duration of this project. This project team, at minimum, shall consist of Fayetteville stake-holder/user division representation. The Fayetteville

Project Team shall assist Davis Business Planning with completion of resource analysis, testing resources, training resources, documentation resources, etc.

- Fayetteville and Davis Business Planning shall jointly develop a comprehensive project schedule that identifies the critical path for this project to be completed prior to October 13, 2006.
- Davis Business Planning shall assist District Court management with the:
 1. Development of the data scrubbing parameters for the existing court data (this is where Fayetteville's and vendor's tech support resources will come in handy);
 2. Data migration/data conversion schedule;
 3. Staff training schedules and monitoring;
 4. Evaluation of business processes utilizing the comprehensive case management system. Develop a report that details the change in business practice required by utilizing the new comprehensive case management system.
 5. Delivery and set-up scheduling for computer equipment (hardware) necessary to utilize the new comprehensive case management system;
 6. Development of an implementation schedule for the new software;
 7. Development of a training evaluation system that provides confirmation to District Court management of the training proficiencies of District Court staff and develop recommendations as needed to provide assurance of proficiencies with the new software.
 8. Develop post-implementation support plan to include back-up and recovery of sensitive court data, redundant hardware, UPS power systems, etc.

3. Tasks

3.1 General Requirements

- Davis Business Planning shall submit a cost proposal with an associated project management plan addressing the tasks specified in the SOW.
- All written deliverables must be phrased in terms and language that can be easily understood by non-technical personnel (e.g., laypersons without subject matter expertise.)
- All document deliverables must be in formats (hard copy and electronic) as specified by the customer/client - at a minimum, the formats must be in industry accepted standards (e.g., MS Word, MS PowerPoint, MS Excel.)
- District Court management will complete a review of each submitted deliverable within specified ten (10) working days for the date of receipt.

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**City of
Fayetteville**

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Davis Business Planning
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SOW for Services
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- Davis Business Planning shall facilitate a kickoff meeting will be held at a location and time selected by Fayetteville where MSICG, Inc. and its staff will be introduced to the Fayetteville District Court and the Fayetteville Project Team.

3.2 Mandatory Tasks and Associate Deliverables

- 3.2.1 Development of the data scrubbing parameters report documenting the procedures to be followed for data scrubbing prior to data migration;
- 3.2.2 Development of Staff training calendar;
- 3.2.3 Development of a review of the existing business process and proposed improvements based on the new comprehensive case management system;
- 3.2.4 Development of an implementation calendar for the new comprehensive case management system;
- 3.2.5 Address internal controls, since this is basically a revenue generation system.

4.0 Reports and Meetings

- Davis Business Planning is required to provide the District Court Software Upgrade Project Manager with bi-weekly written progress reports (one copy) of the implementation phase of this project. Davis Business Planning shall develop a proposed report format for Fayetteville District Court approval.
- The progress reports shall cover all work performed and completed during the two weeks for which the progress report is provided and shall present the work to be performed during the subsequent two weeks.
- The progress report shall identify any problems encountered or still outstanding with an explanation of the cause and resolution of the problem or how the problem will be resolved.
- Fayetteville District Court assisted by Davis Business Planning will be responsible for conducting weekly status meetings with the District Court Software Upgrade Project Manager and the Fayetteville Project Team stakeholder. The meetings will be held on Tuesday of each week - at a time and place so designated by the District Court Software Upgrade Project Manager - unless revised by the District Court Software Upgrade Project Manager. The meetings can be in person or over the phone.

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D. 1
Davis Business Planning
SOW for Services Page 10 of 20
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5. Period of Performance

- Davis Business and Fayetteville agree the period of performance for this task is from July 7, 2006 to no-later-than October 13, 2006. Extensions of this time can be negotiated if the need arises.

6. Fees and Payments

Fayetteville agrees to compensate Davis Business Planning, on a lump-sum basis \$15,000 for the project management services as enumerated in this SOW. Davis Business Planning shall invoice Fayetteville on a bi-monthly basis for payment on this statement of work. Fayetteville agrees to pay the invoices within thirty (30) calendar days from the date of invoice.

7. Davis Business Planning Personnel Requirements

Davis Business Planning must have specialized experience and knowledge commensurate with Fayetteville's specified task.

8. Travel

- Travel shall be authorized by Fayetteville in advance. Pre-approved travel by Davis Business Planning shall be reimbursed based on the Rand-McNally mileage distances utilizing the IRS mileage reimbursement rate. Meal expenditures shall be reimbursed based on the per diem rate published by the IRS for the location traveled to.

ACCEPTANCE:
CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

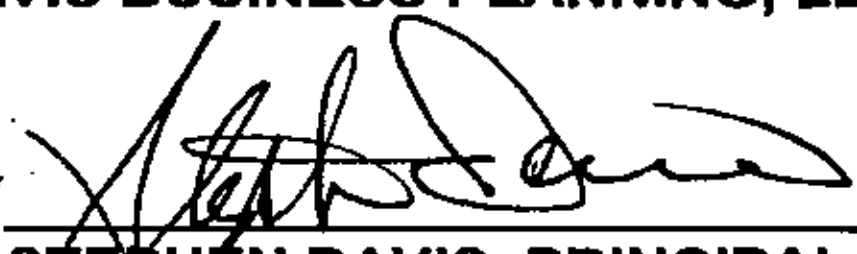
BY _____
DAN COODY, Mayor

ATTEST:

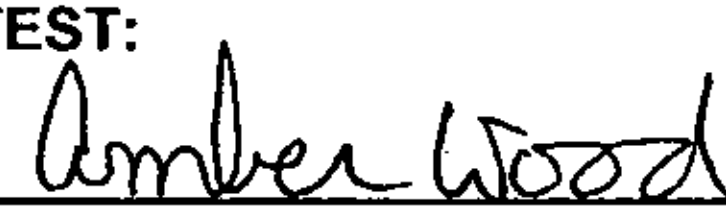
BY _____
SONDRA Smith, CITY CLERK

DATE: _____

SUBMITTED:
DAVIS BUSINESS PLANNING, LLC:

BY  _____
STEPHEN DAVIS, PRINCIPAL

ATTEST:

BY  _____

DATE: 6/28/06

Davis Business Planning, LLC

Client: City of Fayetteville, Arkansas

Task Order Description: Project Management Services with the City of Fayetteville District Court Comprehensive Case Management Software Upgrade

Fee Proposal Date: 26-Jun-06

FEE SCHEDULE

LUMP SUM FEE \$ 15,000.00

SUPPLEMENTAL INFORMATION

DETAILED TASK LISTING AND PREDICTED TIME REQUIRED

Task	Task Description	Principal	Associate Consultant	Admin Assistant	Total
Task 3.2	Mandatory Tasks and Associated Deliverables				
3.2.1	Assist District Court Administrator in Development of Data Scrubbing Parameters	4.0			4.0
3.2.2	Development of District Court Staff Training Calendar	3.0			3.0
3.2.2.A	Assist District Court Administrator with training calendar	4.0			4.0
3.2.2.B	Assist District Court Administrator with development of training program outcomes.	6.0			6.0
3.2.2.C	Coordinate District Court staff and Software Vender staff for training purposes.	4.0			4.0
3.2.2.D	Assist District Court Administrator in development of training options for Police and Prosecutor staff (s).	3.0			3.0

District Court Time Ladder

Davis Business Planning, LLC

Client: City of Fayetteville, Arkansas

Task Order Description: Project Management Services with the City of Fayetteville District Court Comprehensive Case Management Software Upgrade

Fee Proposal Date: 28-Jun-06

FEE SCHEDULE

LUMP SUM FEE

\$ 15,000.00

SUPPLEMENTAL INFORMATION

DETAILED TASK LISTING AND PREDICTED TIME REQUIRED

Task	Task Description	Principal	Associate Consultant	Admin Assistant	Total
3.2.3	Review existing business process and propose changes based on new comprehensive case management system				
	Hourly Billing Rates	\$ 175.00	\$ 125.00	\$ 60.00	
3.2.3.A	Document existing business process.	4.0			4.0
3.2.3.B	Document future business process.	6.0			6.0
3.2.3.C	Review new business for internal control adequacy.	4.0			4.0
3.2.3.D	Propose business process changes as needed.	6.0			6.0
3.2.4	Development of an Implementation calendar				
3.2.4.A	Coordinate System Server and Personal Computer Installation	2.0			2.0
3.2.4.B	Develop Software Installation Schedule and Coordinate Installation	8.0			8.0
3.2.4.C	Assist District Court Administrator in determining user proficiency.	6.0			6.0

Davis Business Planning, LLC

Client: City of Fayetteville, Arkansas

Task Order Description: Project Management Services with the City of Fayetteville District Court Comprehensive Case Management Software Upgrade

Fee Proposal Date: 26-Jun-08

FEE SCHEDULE

LUMP SUM FEE

\$ 15,000.00

SUPPLEMENTAL INFORMATION

DETAILED TASK LISTING AND PREDICTED TIME REQUIRED

Task	Task Description	Hourly Billing Rates	Principal	Associate Consultant	Admin Assistant	Total
Deliverables						
3.2.2.E	Prepare report documenting the training program and outcomes.		4.0		2.0	6.0
3.2.3.E	Develop a report documenting the business process changes proposed and adopted.		6.0		2.0	8.0
3.2.4.D	Develop a report documenting user proficiencies.		4.0		2.0	6.0
Task 4.0	Reports and Meetings					
	Bi-Weekly Reporting	6	7.5			7.5
	Weekly Status Meetings	12	9.0			9.0
	Total Level of Effort		90.5		6.0	96.5
			\$ 15,837.50	\$ -	\$ 360.00	\$ 16,197.50

City Logo

**City of
Fayetteville,
Arkansas**

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Davis Business Planning
Task Order SOW for Services Page 14 of 20
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Task Order Statement of Work For Services

Water & Sewer Rate Study - 2006

with

Davis Business Planning, LLC
for

Technical Advisory Services

27 June 2006

~~25 May 2006~~

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1. Introduction

The purpose of this Statement of Work (SOW) is to detail the tasks and responsibilities of Davis Business Planning, LLC (hereinafter, Davis Business Planning) in relation to the contract with the City of Fayetteville, Arkansas (hereinafter, Fayetteville) for Technical Advisory Services in conjunction with the Water & Sewer Rate Study – 2006 and development of the necessary data links between the Fayetteville financial data, Fayetteville water and sewer utility data, Fayetteville cost data contained within the municipal management system and existing water or sewer master plans.

1.1 Background

Fayetteville owns and operates a publicly owned water distribution system and a publicly owned treatment works that serves a population of approximately 85,000 located within Fayetteville and surrounding communities. Fayetteville is negotiating long-term loans with Arkansas Natural Resources Commission (ANRC). Existing revenue bonds and the ANRC loan documents requires a minimum revenue coverage for the mandatory debt service payments. Fayetteville has engaged HDR/ESS to conduct a cost-of-services rate study to assist Fayetteville in determining the most appropriate rate structure to meet the requirements of existing bond indentures and ANRC regulations. Additionally, Fayetteville has purchased rate-making software for use by Fayetteville staff to perform future rate reviews in-house.

Finally, Fayetteville has a need to develop a long-term financing plan that is linked to the master water facility plan that addresses water system enhancements and reinforcements to meet predicted future needs.

2. Term

This SOW shall apply to the term stated in the Davis Business Planning:

- The contract goes into effect July 7, 2006 and shall terminate on June 30, 2007.

3. Tasks/Scope

3.1 General Requirements

- Davis Business Planning shall submit a cost proposal with an associated project management plan addressing the tasks specified in the SOW
- All written deliverables must be phrased in terms and language that can be easily understood by non-technical personnel (e.g., laypersons without subject matter expertise)

- All document deliverables must be in formats (hard copy and electronic) as mutually agreed upon by Fayetteville and Davis Business Planning - at a minimum, the formats must be in industry accepted standards (e.g., MS Word, Adobe Reader, MS PowerPoint)
- Fayetteville will complete a review of each submitted deliverable within ten (10) working days for the date of receipt.
- A kickoff meeting will be held at a location and time selected by Fayetteville where Davis Business Planning and its staff will be introduced to Fayetteville.
- Davis Business Planning and/or its staff must have knowledge and expertise of the subject matter (e.g., AWWA rate-making methodology, financial reporting systems, job order costing principles, work order costing accumulation systems, cost analysis, report design and development, etc.) for which work is to be performed

3.2 Mandatory Tasks and Associate Deliverables

3.2.1 Review, Analysis and Assistance in Preparation of Data Needs for the Water and Sewer Rate Study 2006

- Davis Business Planning shall participate in the Rate Study kick-off meeting conducted by HDR/EES and assist Fayetteville staff in development of the necessary background data as defined by HDR/EES.
- Davis Business Planning shall review documents developed by Fayetteville staff to ensure the data meets the stated goal as identified by HDR/EES.
- Davis Business Planning shall review drafts of HDR/EES work papers to ensure a clear understanding of the application of rate-making principles. Davis Business Planning may participate in meetings (teleconference, video-conference and/or face to face meetings, customer group workshops) conducted by HDR/EES, as Davis Business Planning is authorized by Fayetteville.

3.2.2 Analysis of Existing Financial System and Work Order System Workflow

- Davis Business Planning shall develop a workflow diagram illustrating the process, in place, to record and document expenses incurred by Fayetteville employees assigned to the Water & Sewer Utility.
- Davis Business Planning shall develop a workflow diagram illustrating the process, in place, to record and document labor, equipment and material costs incurred for each work order or service request.
- Davis Business Planning shall develop a reconciliation process for Fayetteville staff to implement that reconciles the financial system data and the work order system data.

3.2.3 Implementation Plan

- Davis Business Planning shall devise and develop an implementation plan for Fayetteville staff, provide training for no-more-than five (5) Fayetteville staff members in four (4) training sessions and conduct two (2) follow-up reviews for quality assurance.
- Deliverables:
 - Implementation Plan Development and associated documentation.
 - Conduct training sessions.
 - Conduct quality assurance follow-up sessions.

3.2.4 Workshops, Public Meetings, Customer Group Meetings

- Davis Business Planning may be requested to assist Fayetteville staff or HDR/EES in development of presentation materials for the results of the Water & Sewer Rate Study – 2006.
- Deliverables:
 - Development of presentation materials for approval by designated Fayetteville representatives.
 - Participation in public meetings/workshops.
 - Participation in meetings/workshops with Fayetteville Bond Underwriters, Fayetteville Bond Counsel or ANRC staff.

3.2.5 Reporting

- Davis Business Planning shall provide reporting to the assigned City representative on a monthly basis. The report shall provide a status of each sub-task. Deliverables:
 - Monthly Reports
 - Davis Business Planning may be requested to assist in development of materials for Fayetteville staff, public meetings and/or workshops with the Fayetteville City Council or any customer group.

4. Deliverables**4.1 Reports and Meetings**

- Davis Business Planning is required to provide the City representative with monthly written progress reports (one copy) and an electronic copy of the implementation phase of this project.
- Progress reports shall cover all work performed and completed during the month for which the progress report is provided. The progress report shall identify any problems encountered or still outstanding with an explanation of the cause and resolution of the problem or how the problem will be resolved.

- Meetings as requested by designated Fayetteville representative.

5. Period of Performance

- The period of performance for Task 3.2.1 is from July 7, 2006 to February 28, 2007.
- The period of performance for Task 3.2.2 is from July 7, 2006 to April 30, 2007.
- The period of performance for Task 3.2.3 is from October 2, 2006 to April 30, 2007.
- The period of performance for Task 3.2.4 is from July 7, 2006 to April 30, 2007.

6. Payments

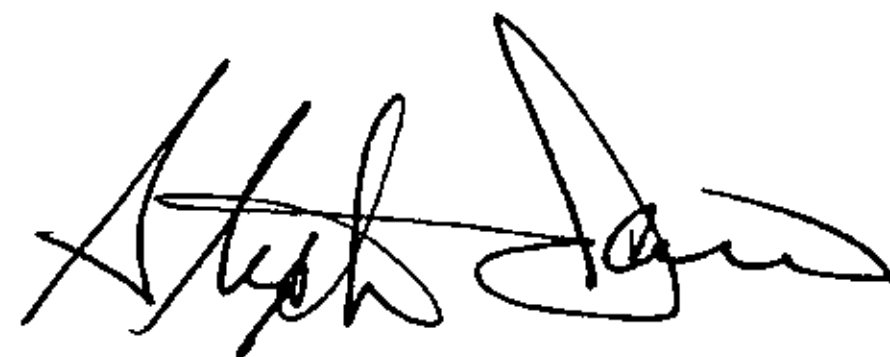
Davis Business Planning shall invoice Fayetteville on a bi-monthly basis for payment on this statement of work. Fayetteville shall pay the invoices within thirty (30) calendar days from the date received by Fayetteville. Payments made beyond these terms may be assessed late fees as authorized by Arkansas law.

7. Davis Business Planning Personnel Requirements

Davis Business Planning must have specialized experience and knowledge commensurate with the specified task.

8 Travel

- In all circumstances, travel must be authorized by Fayetteville prior to Davis Business Planning invoicing Fayetteville for travel cost. Travel shall be limited to Arkansas and shall be paid based on Davis Business Planning utilizing distances published by Rand-McNally and the most recent IRS mileage rate. Meal expenses shall be reimbursed based on the most recent IRS allowances. All other out-of-pocket expenses shall be reimbursed with the presentation of a detailed receipt.



Davis Business Planning, LLC

Client: City of Fayetteville, Arkansas

Task Order Description: Technical Advisory Services: 2006 Water & Sewer Rate Study

FEE SCHEDULE

LUMP SUM FEE \$ 40,000.00

SUPPLEMENTAL INFORMATION

DETAILED TASK LISTING AND PREDICTED TIME REQUIRED

Task	Task Description	Steve Davis	Admin Assistance	Total Project
	Hourly Billing Rates	\$175.00	\$60.00	
Task 3.1 - General Requirements		N/C	N/C	
Task 3.2 - Mandatory Tasks				
3.2.1 - Review, Analysis & Assistance in Prep. Of Data Needs				
	Initial Project Kick-off Meeting			
	Hours -	4	0	4
	Labor Cost	\$700	\$0	\$700
	Review of Documents from City			
	Hours -	16	0	16
	Labor Cost	\$2,800	\$0	\$2,800
	Review of HDR Analysis			
	Hours -	24	0	24
	Labor Cost	\$4,200	\$0	\$4,200
3.2.2 - Analysis of Existing Financial System and Work Order System Workflow				
	Develop Workflow Diagram to document expenses			
	Hours -	24	0	24
	Labor Cost	\$4,200	\$0	\$4,200
	Develop Workflow Diagram to record workorders			
	Hours -	16	0	16
	Labor Cost	\$2,800	\$0	\$2,800
	Develop Reconciliation Process			
	Hours -	20	0	20
	Labor Cost	\$3,500	\$0	\$3,500
3.2.3 - Implementation Plan				
	Develop Implementation Plan			
	Hours -	16	0	16
	Labor Cost	\$2,800	\$0	\$2,800
	Training - Up to 5 people; 4 Training Sessions			
	Hours -	32	0	32
	Labor Cost	\$5,600	\$0	\$5,600
	Conduct two follow-up reviews			
	Hours -	16	0	16
	Labor Cost	\$2,800	\$0	\$2,800
	Reports/Documentation			
	Hours -	20	16	36
	Labor Cost	\$3,500	\$960	\$4,460
3.2.4 - Workshops, Public Meetings and Customer Group Meetings				
	Workshops/Meetings			
	Hours -	16	0	16
	Labor Cost	\$2,800	\$0	\$2,800
	Customer Group Meetings			
	Hours -	20	0	20
	Labor Cost	\$3,500	\$0	\$3,500
3.2.5 - Reporting				
	Monthly Reports			
	Hours -	12	12	24
	Labor Cost	\$2,100	\$720	\$2,820
	Total Labor Hours	238	28	264
	Total Labor Wholesale Rate Development	\$41,300	\$1,680	\$42,980
EXPENSES				
	Miscellaneous (phone, copies, fax, etc.)			2,000
	Total Expenses			\$2,000
TOTAL		\$41,300	\$1,680	\$44,980

Added at Agenda Session
ALDERMAN AGENDA REQUEST FORM

6/27/06

D. 2
ANX 06-2020 Hays
Page 1 of 24

7/6/06

Meeting

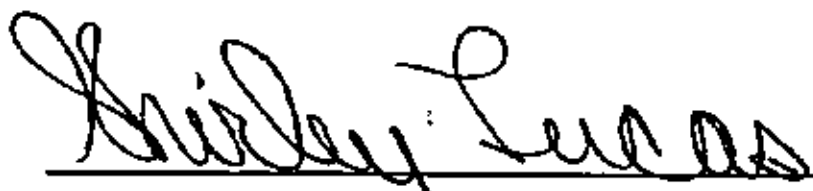
FOR: COUNCIL MEETING OF July 6, 2006

FROM: ALDERMAN SHIRLEY LUCAS

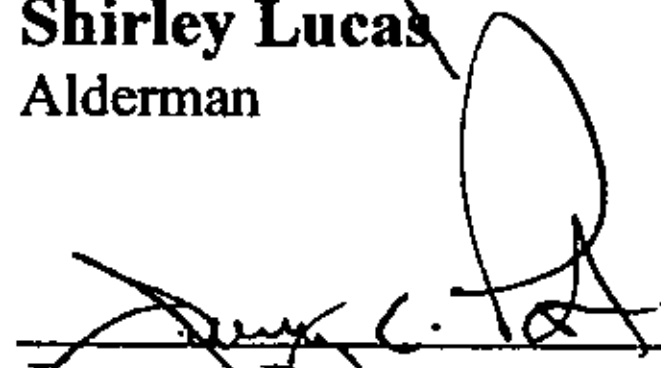
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Annex The Property Described In ANX 06-2020 (Hays)

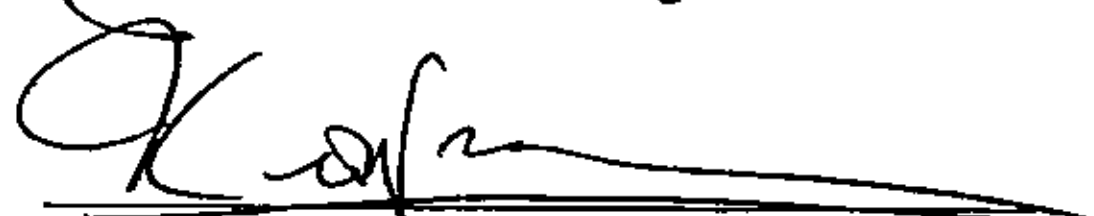
APPROVED FOR AGENDA:


Shirley Lucas
Alderman

6-27-06
Date


Jeremy Pate
Director of Current Planning

06-27-06
Date


Kit Williams
City Attorney (as to form)

6-27-06
Date

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: June 27, 2006

Subject: Annexation for Hays (ANX 06-2020)

RECOMMENDATION

The Planning Commission recommended approval of the subject annexation request for approximately 7.5 acres of property located east of Double Springs Road, north of Dot Tipton Road.

BACKGROUND

On April 24, 2006, the Planning Commission tabled this annexation request. The annexation of this property would have created a 1-acre island of unincorporated property. Aware that the property owner to the north was in the process of requesting annexation through the County, staff recommended and the Planning Commission acted to table the proposed annexation until both requests could be considered simultaneously. An annexation petition was submitted for the property to the north (ANX 06-2127 Williams) and heard for consideration by the Planning Commission at the same meeting as this request.

The subject property contains approximately 7.5 acres and is located on Double Springs Road, north of Dot Tipton Road. The property is bordered to the east and west by the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. A portion of the northern property line abuts property recently annexed into the City of Fayetteville and zoned RMF-6, subject to a Bill of Assurance. The remaining northern property line lies adjacent to a parcel of unincorporated property containing approximately 1 acre also proposed to be annexed into the City of Fayetteville.

The applicant requests annexation of 7.5 acres into the city limits to allow for residential development of greater density than would be possible otherwise, by utilizing the amenities provided when annexing into the city (i.e. sewer). The applicant has submitted a rezoning request with the annexation petition to rezone the property from R-A to RSF-4.

City Council Meeting of July 06, 2006
Agenda Item Number

DISCUSSION

This item was heard at the regular Planning Commission on June 26, 2006. The Planning Commission voted 9-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT
PROPERTY DESCRIBED IN ANNEXATION
PETITION ANX 06-2020 (CC2006-2), FOR
PROPERTY LOCATED EAST OF DOUBLE
SPRINGS ROAD, NORTH OF DOT TIPTON
ROAD, CONTAINING APPROXIMATELY 7.5
ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of
Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part
hereof.

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

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby
amended to assign the zoning designation of R-A, Residential Agricultural to the subject
property.

Section 4: That the above-described property is hereby assigned to Ward No. Four.

PASSED and APPROVED this ____ day of ____, 2006.

APPROVED

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-2020

THE SOUTH HALF (S ½) OF THE SOUTH HALF (S ½) OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 15, IN TOWNSHIP 16 NORTH OF RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN, AND CONTAINING TEN (10) ACRES, MORE OR LESS. LESS AND EXCEPT THE FOLLOWING ONE (1) ACRE TRACT, DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID TEN (10) ACRE TRACT, AND RUNNING THENCE EAST 622.3 FEET, THENCE SOUTH 70 FEET, THENCE WEST 622.3 FEET, THENCE NORTH 70 FEET TO THE PLACE OF BEGINNING, AND EXCEPT THE FOLLOWING ONE AND ONE-HALF (1 ½) ACRE TRACT, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID TEN (10) ACRE TRACT, THENCE NORTH 135 FEET, THENCE EAST 484 FEET, THENCE SOUTH 135 FEET, THENCE WEST 484 FEET TO THE POINT OF BEGINNING, AND LEAVING SEVEN AND ONE-HALF (7 ½) ACRES, MORE OR LESS.



PC Meeting of June 26, 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
THRU: Jeremy Pate, Director of Current Planning
DATE: June 16, 2006

ANX 06-2020: Annexation (HAYS, 474): Submitted by LANDTECH ENGINEERING on behalf of Joan Hays for property located on Double Springs Rd., N of Dot Tipton Rd.. The property is in the Planning Area and contains approximately 7.5 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation of the 7.5-acre tract in to the City of Fayetteville.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date:	<u>June 26, 2006</u>	Motion:	Clark Second: Mynes Vote: 9-0-0
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date:	<u>July 18, 2006 (1st reading if recommended)</u>		

BACKGROUND:

On April 24, 2006, the Planning Commission tabled this annexation request. The annexation of this property would have created a 1-acre island of unincorporated property. Aware that the property owner to the north was in the process of requesting annexation through the County, staff recommended and the Planning Commission acted to table the proposed annexation until both requests could be considered simultaneously. An annexation petition has been submitted for the property to the north (ANX 06-2127 Williams) and is on the June 26, 2006 Planning Commission agenda.

Property description: The subject property contains approximately 7.5 acres and is located on Double Springs Road, north of Dot Tipton Road. The property is bordered to the east and west by the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. A portion of the northern property line abuts property recently annexed into the City of Fayetteville and zoned RMF-6, subject to a Bill of Assurance. The remaining

northern property line lies adjacent to a parcel of unincorporated property containing approximately 1 acre also proposed to be annexed into the City of Fayetteville.

Proposal: The applicant requests annexation of 7.50 acres into the city limits to allow for residential development of greater density than would be possible otherwise, by utilizing the amenities provided when annexing into the city (i.e. sewer). The applicant has submitted a rezoning request with the annexation petition to rezone the property from R-A to RSF-4.

Recommendation: Staff recommends approval of the requested annexation in conjunction with the annexation of adjacent property finding that the incorporation of this property and its anticipated development will create an acceptable city boundary and be compatible with the adjacent development.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes	RMF-6 (with Bill of Assurance) Planning Area
South	Rural Single family homes	Planning Area
East	Vacant (Legacy Pt. Sub. under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Double Springs Road is an unimproved two-lane paved roadway at this property. Improvements that may be required shall be evaluated by staff as development occurs.

Adjacent Streets: West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" waterline along Double Springs Road. Improvements to the water system may be required dependent upon the demand placed by the future development. Water service will need to be extended within the property at the time of development.

Sewer: Sanitary sewer is not available on the site. There is an 8" sewer line located in the adjacent subdivision on the west side of Double Springs Road and to the north in the Legacy Point Subdivision. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended to the property at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 7.5 acres are covered by Engine 7 located at 835 N Ruppel Rd. The property is 3.1 miles from the station with an expected response time of 6

minutes. Measured hydrant flow in the area is 1465 gallons/minute. 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. 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.

Police: It is the opinion of the Fayetteville Police Department that this annexation 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 the portion of this property within the Planning Area as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: The requested annexation, in conjunction with the annexation of an adjacent 1-acre parcel to the north, will create an acceptable city boundary that will “fill in” an area currently surrounded by city limits. Staff finds that the proposed annexation satisfactorily meets the requirements in the annexation guideline policy. Thus, staff recommends that the annexation of this property occur in conjunction with the annexation of property to the north.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the city limits along its north, east and west boundaries. The request does not extend the city limit boundary further south than the current limits reach.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not divide neighborhoods. There are several single-family dwellings that line Double Springs Road both to the north and south of this property. Some of these homes will remain and others will be removed through development of recently annexed property. There are two existing single-family dwellings between this property and Dot Tipton Road.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: The proposed boundaries follow existing property lines.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 6 minutes for fire protection from Fire Station #7. Extension of water and sewer lines shall occur at the time of development.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture with some wooded areas adjacent to Double Springs Road and along the southern property line. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The police department reports that this annexation and 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.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: The applicant has met with staff regarding the possibility of extending sewer

outside the city limits to serve a development on this property. However, the applicant has chosen to request annexation into the City of Fayetteville as did the adjacent property owner to the north. Public services are available to the properties adjacent to the subject property; therefore, the annexation of this property will not create an unnecessary load of calls or extension of service area on emergency services and public facilities.

Water, fire and police protection are currently provided in this area. The property is adjacent to city limits, to which utilities and other public service providers already respond.

- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. As it exists, annexation of the property would not require the upgrading of utilities unless and until additional development that increases the demand on public services is proposed.

- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners are requesting a rezoning of RSF-4 to allow for the development of a single-family residential subdivision, similar to the subdivisions east and west of the property.

- 11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: No development proposal has been submitted to the City of Fayetteville. Any request to develop or subdivide this property requires staff review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: Property recently annexed to the north began to incorporate portions of county property located between the city limits. This request will further "fill in" the city limits to the south, between Silverthorne and Legacy Pointe IV Subdivisions.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 7.50 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.



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

ANX06-2020

RZN06-2021 (Hays, 474).

These 7.5 acres are covered by Engine 7 located at 835 N Ruppel Rd.

The property is 3.1 miles from the station with an expected response time of 6 minutes.

Measured hydrant flow in the area is 1465 gallons/minute.

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.

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.

Please feel free to contact me if you have any questions

Dale Riggins

Fayetteville Fire Department

November 16, 2005

Dave Jurgens
Water and Waste Water Director
113 W. Mountain
City of Fayetteville
Fayetteville, AR 72701

Dear Mr. Jurgens:

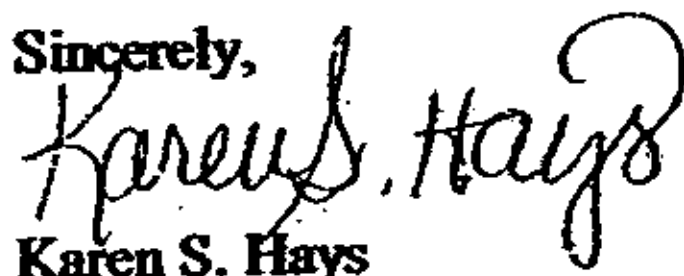
My name is Karen Hays and I spoke with you by phone October 7 concerning a 7.5 acre piece of property just outside the city limits on Double Springs Road. My brother, Leonard Gabbard, and I are working together, attempting to develop this land. You may recall that we sat down and visited with you and Brent O'Neal in May of this year about whether or not we should make efforts to tie onto the city sewer or if we should move forward with our original plan to use a S.T.E.P. system. You strongly recommended that we tie onto the city sewer.

Because we realize that your recommendation is in the best long-term interest of everyone, over the course of the summer and the early fall, we have been working to follow through with your recommendation. We have made arrangements with Charlie Sloan and his project engineer to tie onto his lift station, which borders our property. We have gone through the proper protocol to become annexed into the city, but because there would be the formation of an island by our annexation into Fayetteville, City Planning recommended that we stop the deannexation process from Washington County. We have spoken with the property owners to the north of us, and all but one is interested in annexation into the city limits. As it now stands, we are in the county inside the one mile planning zone of the City of Fayetteville with city sewer bordering our property, and we cannot get annexed because of one property owner to the north of us.

We understand that our land is being considered for future annexation into the city. However, such an annexation may not happen for several years. We would like to request a variance to tie onto the city sewer outside the city limits, understanding that we would pay the all fees, meet all city codes, etc. as if we were inside the city limits. Our land will eventually be part of the City of Fayetteville, and we feel that it would be best for public health and save the city money in the long run if the sewer infrastructure was in place at such time.

Thank you so much for your assistance in this matter.

Sincerely,


Karen S. Hays

IN THE COUNTY COURT OF WASHINGTON COUNTY

**IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS**

NO. CC2006-2

ORDER OF ANNEXATION

Now on this 28th day of February, 2006, this cause comes to be heard, the Petitioners, Lloyd and Joan Hays Revocable Trust, Joan C. Hays, Trustee, who are represented by Karen S. Hays, after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 25th day of January, 2006, at which time this Court fixed the 28th day of February, 2006, at 10:00 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owners have freehold interests in the property hereinafter described in the Petition and constitute the real owners of the area affected.

RECEIVED
CLERK
CO. & PETITIONER
WASHINGTON CO. ARK.

2006 MAR -2 AM 10:18

FILED

3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described on "Exhibit A" attached hereto.
4. The area is not unusually large and it is contiguous and adjacent to the adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the city of Fayetteville, Arkansas, in accordance with Act No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in Ark. Code Ann. § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington, County.

IT IS SO ORDERED this 28th day of February, 2006.


The Honorable Jerry Hunton
Washington County Judge

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

**IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS**

NO. CC2006-2

2006 JAN 25 PM 2:02
FILED
CLERK OF COURT
WASHINGTON COUNTY, ARK.

**PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS**

The Petitioners, Lloyd and Joan Hays Revocable Trust, Joan C. Hays, Trustee, hereby submit their Petition to annex certain real property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

1. That Petitions own the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and said Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas.
2. The Petitioners name David W. Hays and Karen S. Hays as persons authorized to act on their behalf with respect to this Petition.
3. The Petitioners desire that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the Real Property into the City of Fayetteville.
4. A true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas, is shown on the Plat

Map, Exhibit "A", attached hereto.

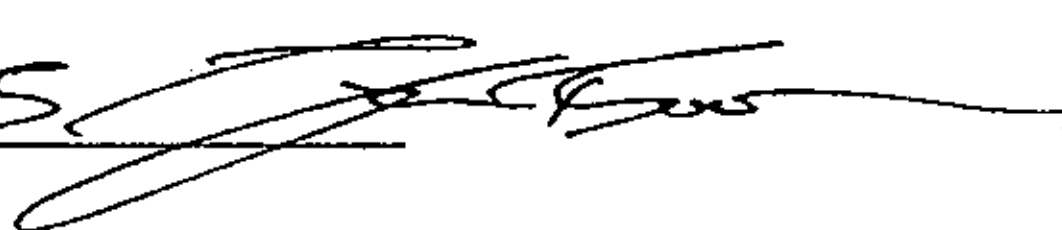
5. The Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington, County, Arkansas, and the Petitioners state that they will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, Petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described real property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Joan C Hays
Lloyd & Joan Hays Revocable Trust
Joan C. Hays, Trustee

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 25th
day of January, 2006.

My Commission Expires:

5/18/2015 

OFFICIAL SEAL
TYLER HEATH BENSON
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 05/18/2015

Added at Agenda Session 6/27/06
ALDERMAN AGENDA REQUEST FORM

D. 3
RZN 06-2021 Hays
Page 1 of 18

*7/6/06
Meeting*

FOR: COUNCIL MEETING OF July 6, 2006

FROM: ALDERMAN SHIRLEY LUCAS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Rezone The Property Described In RZN 06-2021 (Hays)

APPROVED FOR AGENDA:

Shirley Lucas

Shirley Lucas
Alderman

6-27-06

Date

Jeremy Pate

Jeremy Pate
Director of Current Planning

6-27-06

Date

Kit Williams

Kit Williams
City Attorney (as to form)

6-27-06

Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: June 27, 2006

Subject: Rezoning for Hays (RZN 06-2021)

RECOMMENDATION

The Planning Commission recommended approval of the subject rezoning request from R-A to RSF-4 on approximately 7.5 acres of property located east of Double Springs Road, north of Dot Tipton Road.

BACKGROUND

The subject property contains approximately 7.5 acres and is located on Double Springs Road, north of Dot Tipton Road. The property is bordered to the east and west by the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Both of the adjacent developments are zoned RSF-4. A portion of the northern property line abuts property recently annexed into the City of Fayetteville and zoned RMF-6, subject to a Bill of Assurance.

The applicant proposes a rezoning of the 7.5-acre property to RSF-4 in order to develop the property for a single-family subdivision.

DISCUSSION

This item was heard at the regular Planning Commission on June 26, 2006. The Planning Commission voted 9-0-0 to recommend approval of this rezoning request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2021, FOR APPROXIMATELY 7.5 ACRES, LOCATED EAST OF DOUBLE SPRINGS ROAD, NORTH OF DOT TIPTON 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 06-2021

THE SOUTH HALF (S $\frac{1}{2}$) OF THE SOUTH HALF (S $\frac{1}{2}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 15, IN TOWNSHIP 16 NORTH OF RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN, AND CONTAINING TEN (10) ACRES, MORE OR LESS. LESS AND EXCEPT THE FOLLOWING ONE (1) ACRE TRACT, DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID TEN (10) ACRE TRACT, AND RUNNING THENCE EAST 622.3 FEET, THENCE SOUTH 70 FEET, THENCE WEST 622.3 FEET, THENCE NORTH 70 FEET TO THE PLACE OF BEGINNING, AND EXCEPT THE FOLLOWING ONE AND ONE-HALF (1 $\frac{1}{2}$) ACRE TRACT, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID TEN (10) ACRE TRACT, THENCE NORTH 135 FEET, THENCE EAST 484 FEET, THENCE SOUTH 135 FEET, THENCE WEST 484 FEET TO THE POINT OF BEGINNING, AND LEAVING SEVEN AND ONE-HALF (7 $\frac{1}{2}$) ACRES, MORE OR LESS.

DRAFT



PC Meeting of June 26, 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
THRU: Jeremy Pate, Director of Current Planning
DATE: June 16, 2006

RZN 06-2021: Rezoning (HAYS, 474): Submitted by LANDTECH ENGINEERING on behalf of Joan Hays for property located on Double Springs Rd., N of Dot Tipton Rd. The property is zoned R-A, Residential Agricultural, and contains approximately 7.5 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning of the 7.5-acre tract from R-A to RSF-4.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date:	<u>June 26, 2006</u>	Motion: Clark	Second: Myers
		Vote: 9-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date:	<u>July 18, 2006 (1st reading if recommended)</u>		

BACKGROUND:

On April 24, 2006, the Planning Commission tabled this rezoning request and the associated annexation request. The annexation of this property would have created a 1-acre island of unincorporated property. Aware that the property owner to the north was in the process of requesting annexation through the County, staff recommended and the Planning Commission acted to table the proposed rezoning request until the annexation of this property and the adjacent 1-acre tract could be considered simultaneously.

Property description: The subject property contains approximately 7.5 acres and is located on Double Springs Road, north of Dot Tipton Road. The property is bordered to the east and west by the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. A portion of the northern property line abuts property recently annexed into the City of Fayetteville and zoned RMF-6, subject to a Bill of Assurance.

K:\Reports\2006\PC Reports\06-26-06\RZN 06-2021 (Hays).doc

Proposal: The applicant proposes a rezoning of the 7.5-acre property to RSF-4 for a single-family subdivision.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a uniform and consistent development pattern, consistent with the adjacent developments.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family homes	RMF-6 (with Bill of Assurance for single-family and 2-unit townhomes) Planning Area (ANX 06-2127)
South	Rural Single family homes	Planning Area
East	Vacant (under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Double Springs Road is an unimproved two-lane paved roadway at this property. Improvements that may be required shall be evaluated by staff as development occurs.

Adjacent Streets: West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" waterline along Double Springs Road. Improvements to the water system may be required dependent upon the demand placed by the future development. Water service will need to be extended within the property at the time of development.

Sewer: Sanitary sewer is not available on the site. There is an 8" sewer line located in the adjacent subdivision on the west side of Double Springs Road and to the north in the Legacy Point Subdivision. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended to the property at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 7.5 acres are covered by Engine 7 located at 835 N Ruppel Rd. The property is 3.1 miles from the station with an expected response time of 6 minutes. Measured hydrant flow in the area is 1465 gallons/minute. 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. 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.

Police: It is the opinion of the Fayetteville Police Department that this annexation 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 designates this site **Residential**. Rezoning this property to RSF-4 is compatible to the surrounding density of adjacent residential development and consistent with the 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.

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. A subdivision with density compatible to those surrounding subdivisions within the City could not be developed as it is currently zoned. A higher density than the R-A zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4.

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

Finding: It is expected that a rezoning from R-A to RSF-4 would create an increase in traffic compared with that allowed under the existing zoning. However, the property is situated near two Collector streets and adjacent to a Minor Arterial street. The existing and improved infrastructure will be able to accommodate a 7.5 acre development of 4 units per acre (a maximum 30 units; 300 vehicle trips per day).

Police: It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion would not be created by this rezoning.

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

Finding: The proposed zoning would increase population density. Under an R-A, Residential Agricultural designation, the 7.5-acre tract would allow for a maximum of 3 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 30 dwelling units would be permitted, with a projected 66 future residents in this area. Rezoning the property increases the possible number of residential units and population than that which would be allowed in the R-A zoning district, but is consistent with land use, zoning, and development patterns in the immediate vicinity.

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:	
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-1 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.

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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.



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

ANX06-2020

RZN06-2021 (Hays, 474)

These 7.5 acres are covered by Engine 7 located at 835 N Ruppel Rd.

The property is 3.1 miles from the station with an expected response time of 6 minutes.

Measured hydrant flow in the area is 1465 gallons/minute.

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.

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.

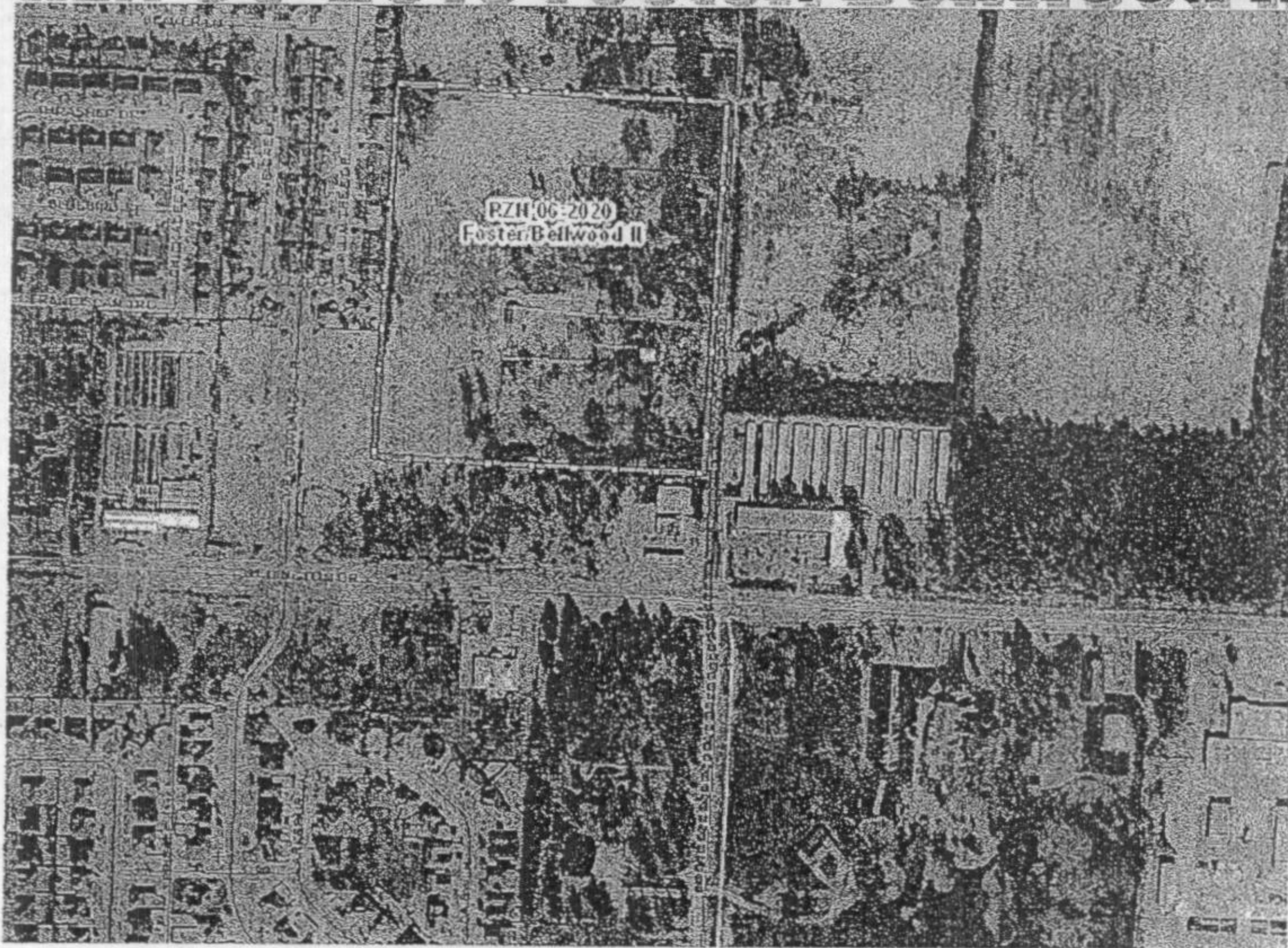
There should be no adverse effects on our call volume or response time to this development.

Please feel free to contact me if you have any questions

Dale Riggins

Fayetteville Fire Department

RZN 06-2018 Foster/Bellwood II



ANX 06-2020/RZN 06-2021 Hays

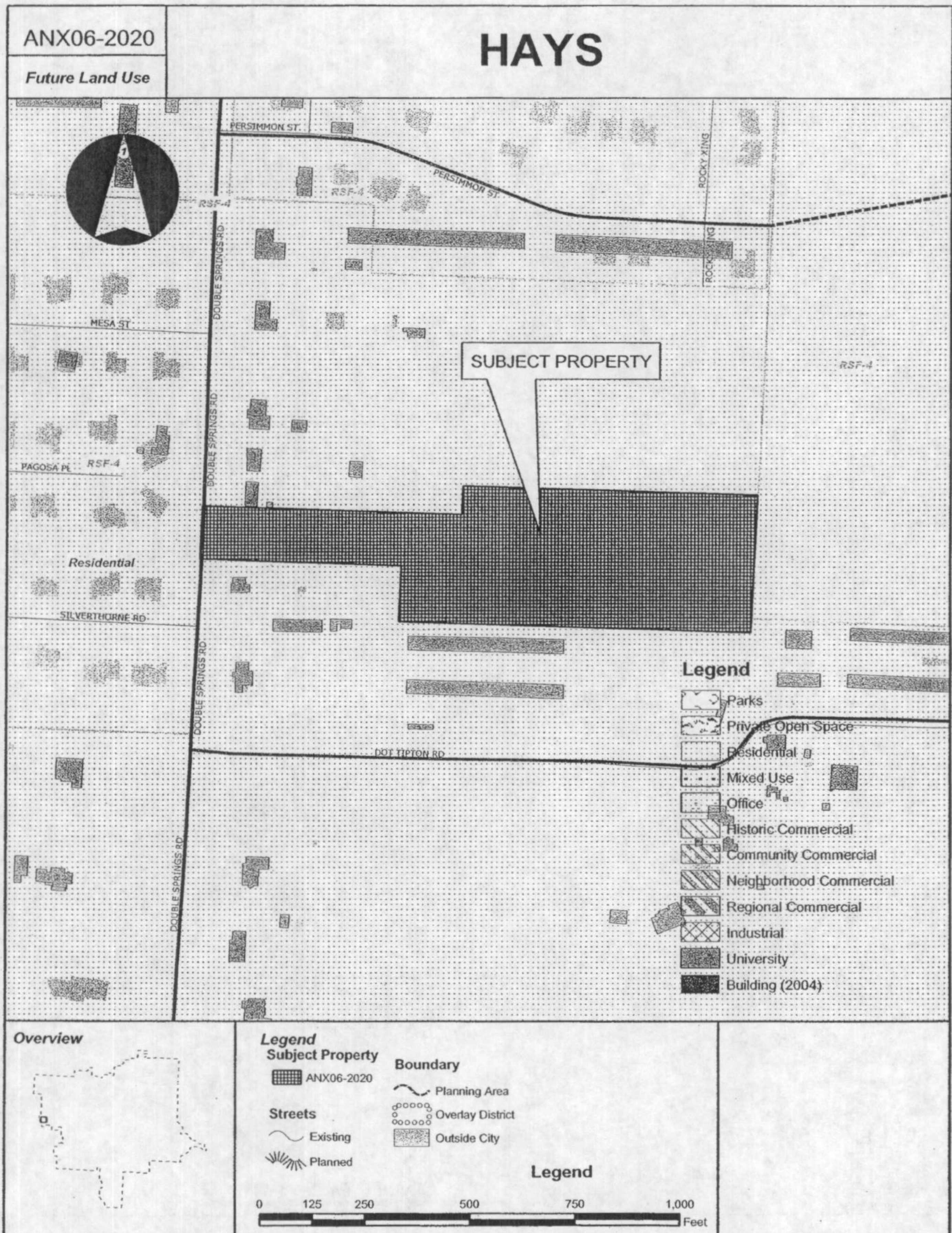


Ripple to
Wedington to
Double Springs Rd

START

FWISH

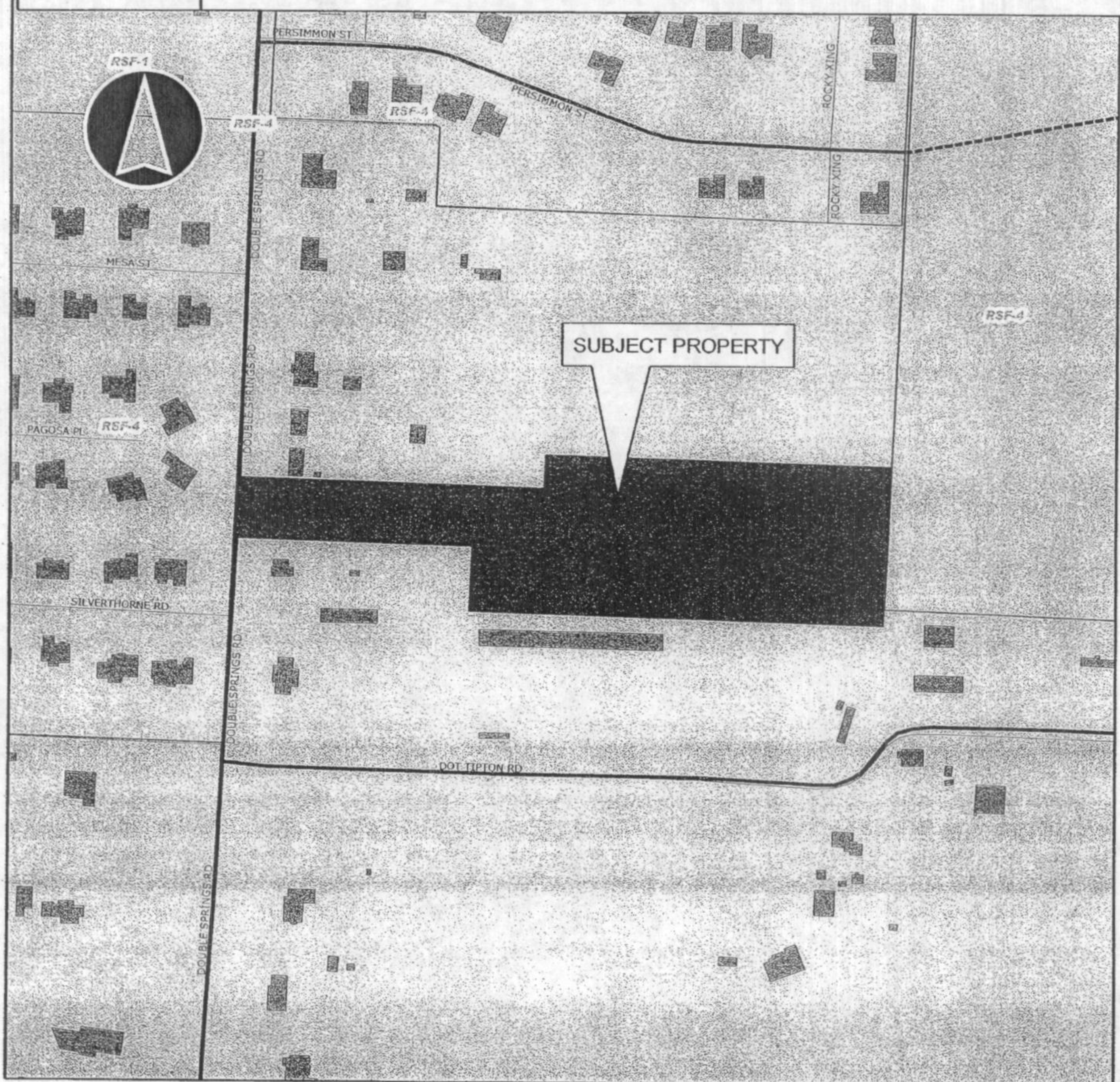




ANX06-2020

HAYS

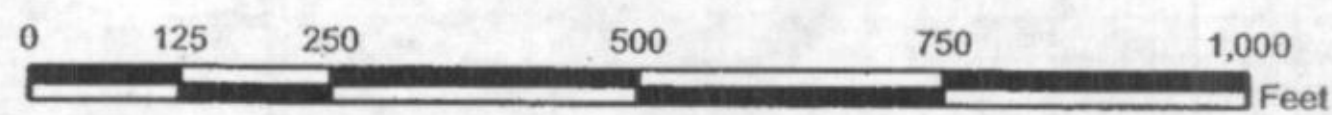
Close Up View



Overview

Legend

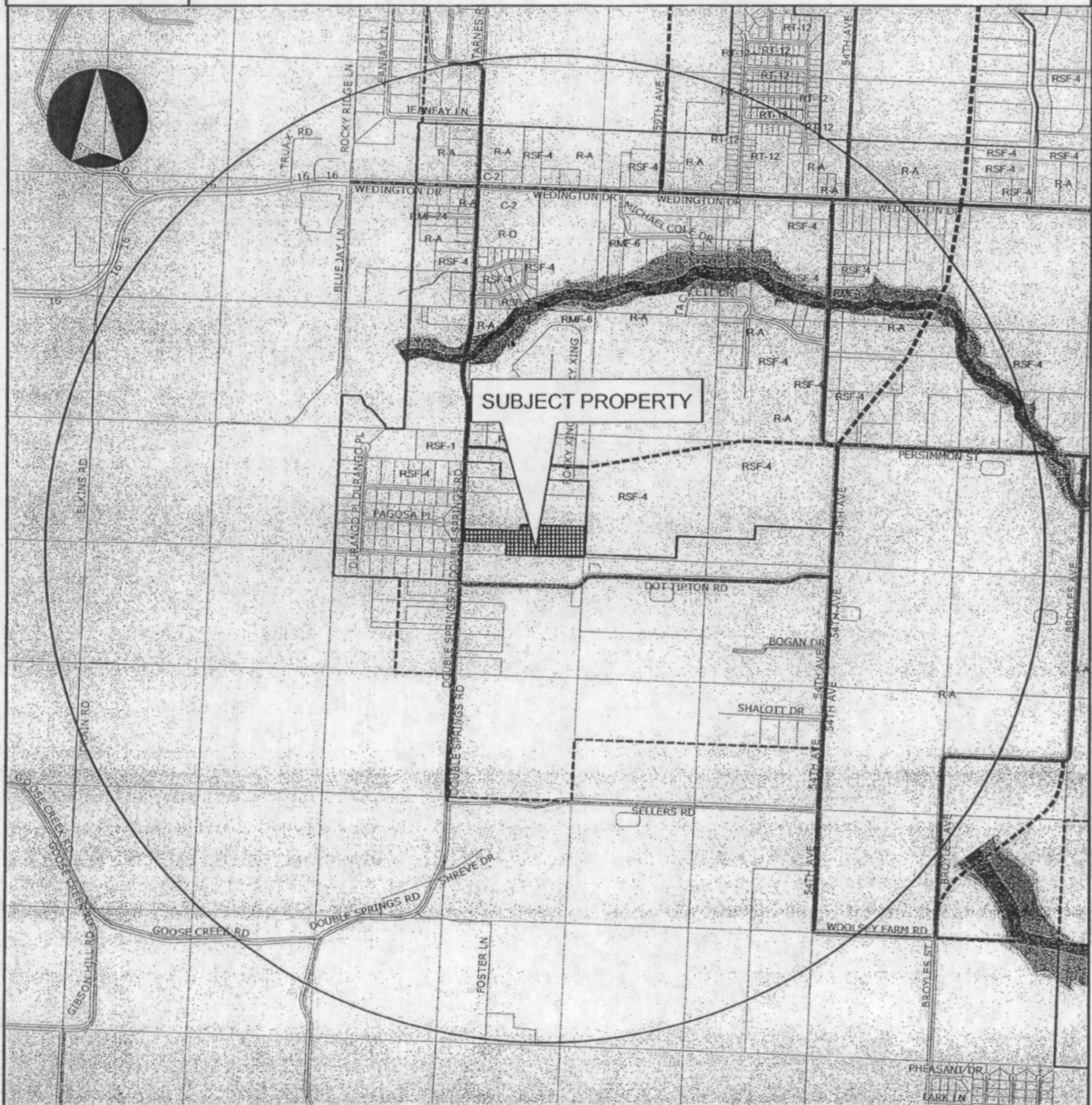
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- ANX06-2020
- vector.GDB.Footprint_2004



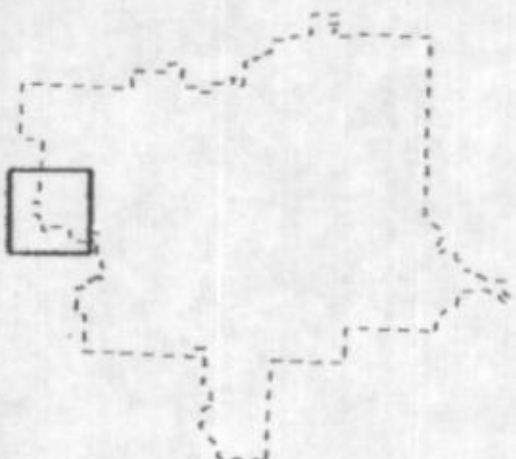
ANX06-2020

One Mile View

HAYS



Overview

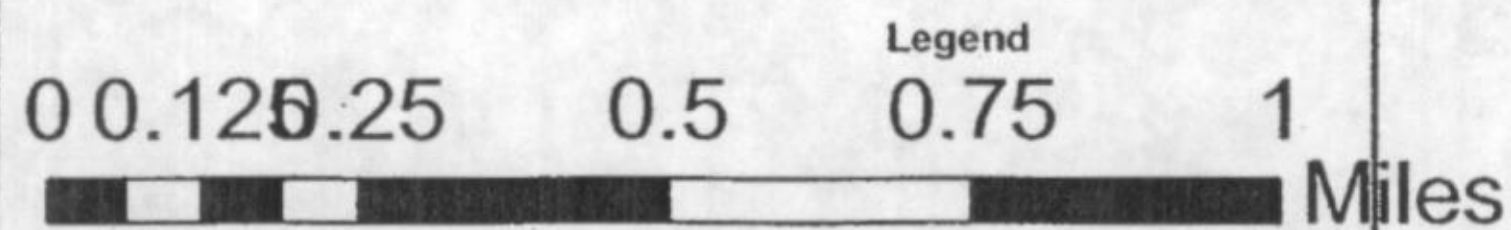


Legend

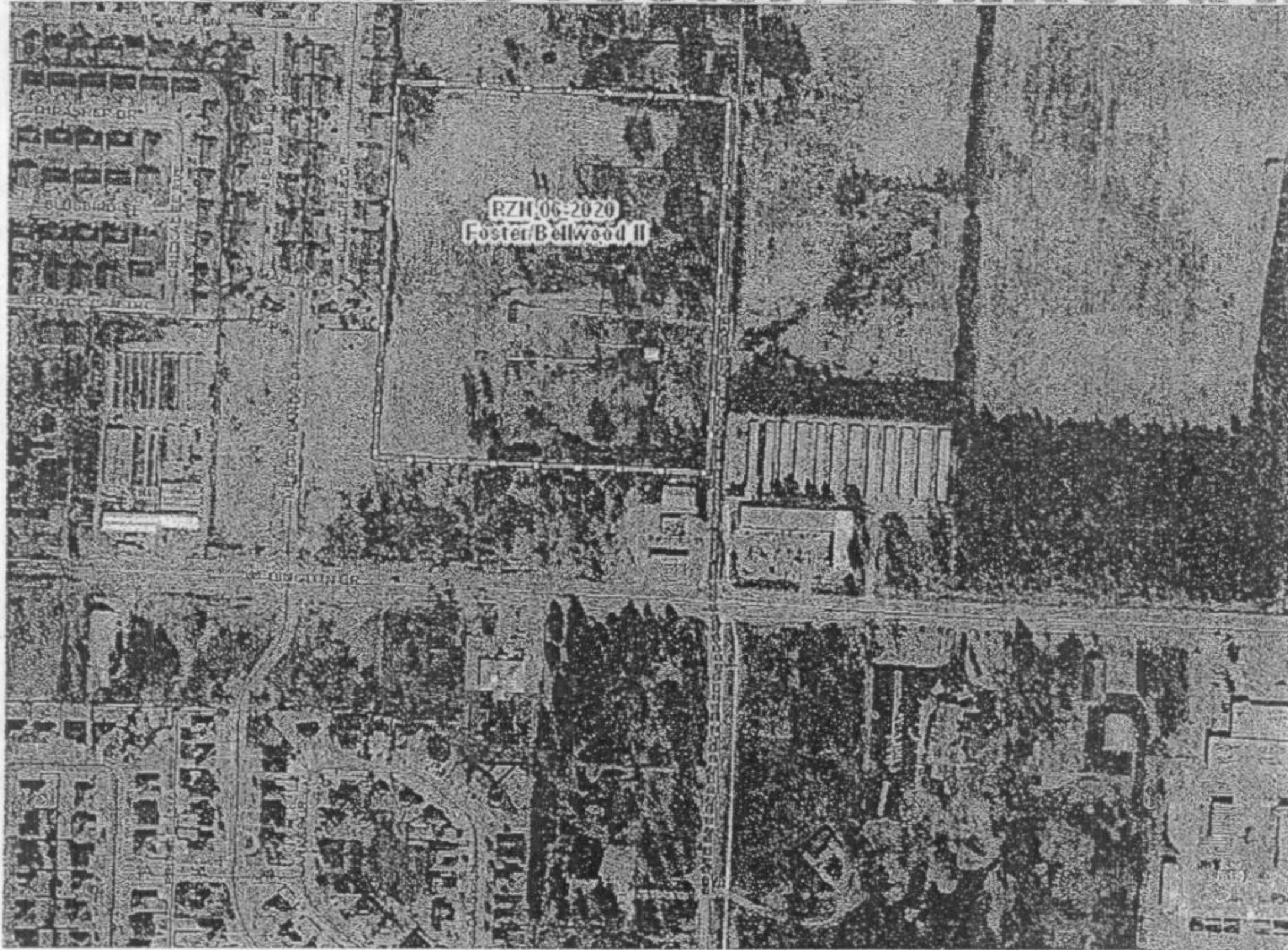
Subject Property
ANX06-2020

Boundary

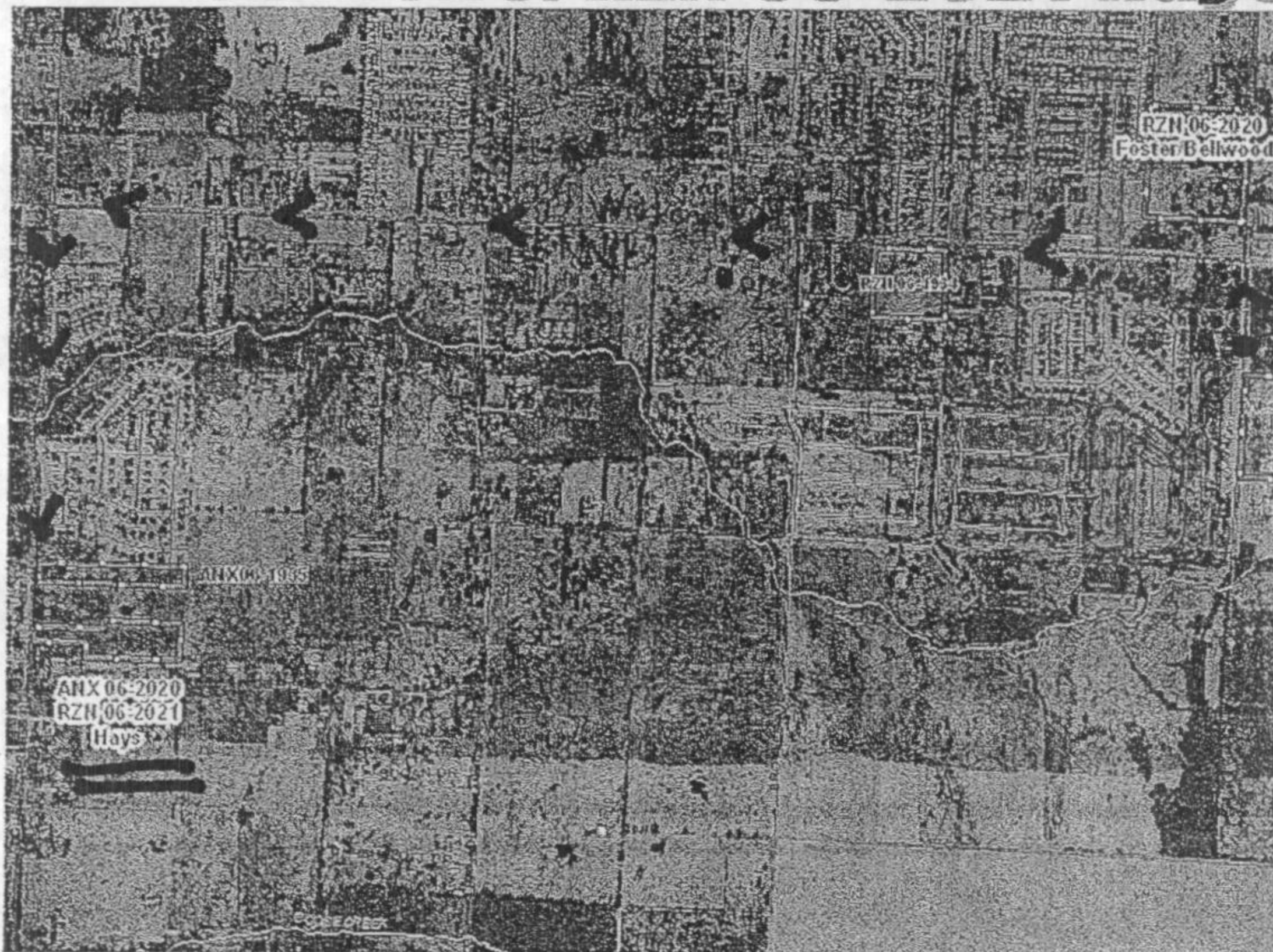
Planning Area
Overlay District
Outside City



RZN 06-2018 Foster/Bellwood II



ANX 06-2020/RZN 06-2021 Hays



Ripple to
Wedington to
Double Springs R

Rezoning Application

Applicant: Lloyd and Joan Hays Revocable Trust,
Joan C. Hays, Trustee
2556 Mount Comfort Road, #29
Fayetteville, AR 72704
Phone: 479-442-6225 (home); 479-530-2556 (cell)

Representative: Leonard Gabbard with Landtech Engineering
120 West Emma Avenue
Springdale, AR 72764
Phone: 479-756-2772 (office); 479-409-9259 (cell)
Fax: 479-756-6452

The following is the written description as requested in line item 6 of the Rezoning Application for the City of Fayetteville.

6a. Current ownership information and any proposed or pending property sales.

Lloyd and Joan Hays Revocable Trust, Joan C. Hays, Trustee currently owns this property. The sale of the property is pending to Freedom Enterprises, Inc. and Gabby-Hills Enterprises, Inc.

6b. Reason (need) for requesting the zoning change.

RSF-4 is the appropriate and necessary zoning for residential housing development that is desired.

6c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

This land will be developed in accordance with the surrounding properties to the west and to the east, which were developed by Sloan Properties, Inc. The property directly north, owned by Mr. Fletcher Williams, has come up for annexation and rezoning in order to be developed in like manner as well. It is the desire of the potential land developers on this project to join with Mr. Williams and his developers in petitioning for annexation and rezoning in order that we are given the same opportunities afforded Sloan Properties, Inc.

Traffic flow onto Double Springs Road will not be increased significantly by our 7.5 acre development and again, the appearance will be in accordance with the developments of Mr. Charlie Sloan. There will be no "signage."

- 6d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

In May of 2005, a representative of Freedom Enterprises, Inc. and Leonard Gabbard of Gabby-Hills Enterprises, Inc. met with Dave Jurgens, the Water and Waste Water Director for the City of Fayetteville, and Brent O'Neill, with City Engineering, to discuss our proposed project. Mr. Jurgens recommended that in the interest of public health, this land needed to be annexed and placed on city sewer. This recommendation was pursued, but when it reached City Planning they did not recommend it because of the "guideline" that stated that the City did not want to create an island. Attempts were then made to get permission to tie onto the city sewer with the understanding that once we were eligible for annexation, it would be immediately pursued. After further discussions with the Ward 4 Alderman and Alderwoman and with City Planning, we were directed to again attempt annexation into the City because the City understandably does not like to extend services outside its City Limits. Dave Jurgens is in full support of this annexation because he does not want the City to have a S.T.E.P. system to contend with in the very near future. Please see the letter attached dated November 16, 2005. As stated in the letter attached, we have made arrangements with Charlie Sloan and his project engineer to tie on to his lift station, which BORDERS our property to the east.

Water is available at Double Springs Road.

The following is the written description as requested in line item 7 of the Rezoning Application for the City of Fayetteville.

- 7a. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

It is consistent. RSF-4 is the zoning of the developments all around this proposed development.

- 7b. Whether the proposed zoning is justified and/or needed at the time of the request.

It is needed and justified at the time of the request. It is desired that this land would be annexed into the City, which borders this land to the East and to the West, and that upon annexation, it could be appropriately rezoned to RSF-4.

- 7c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

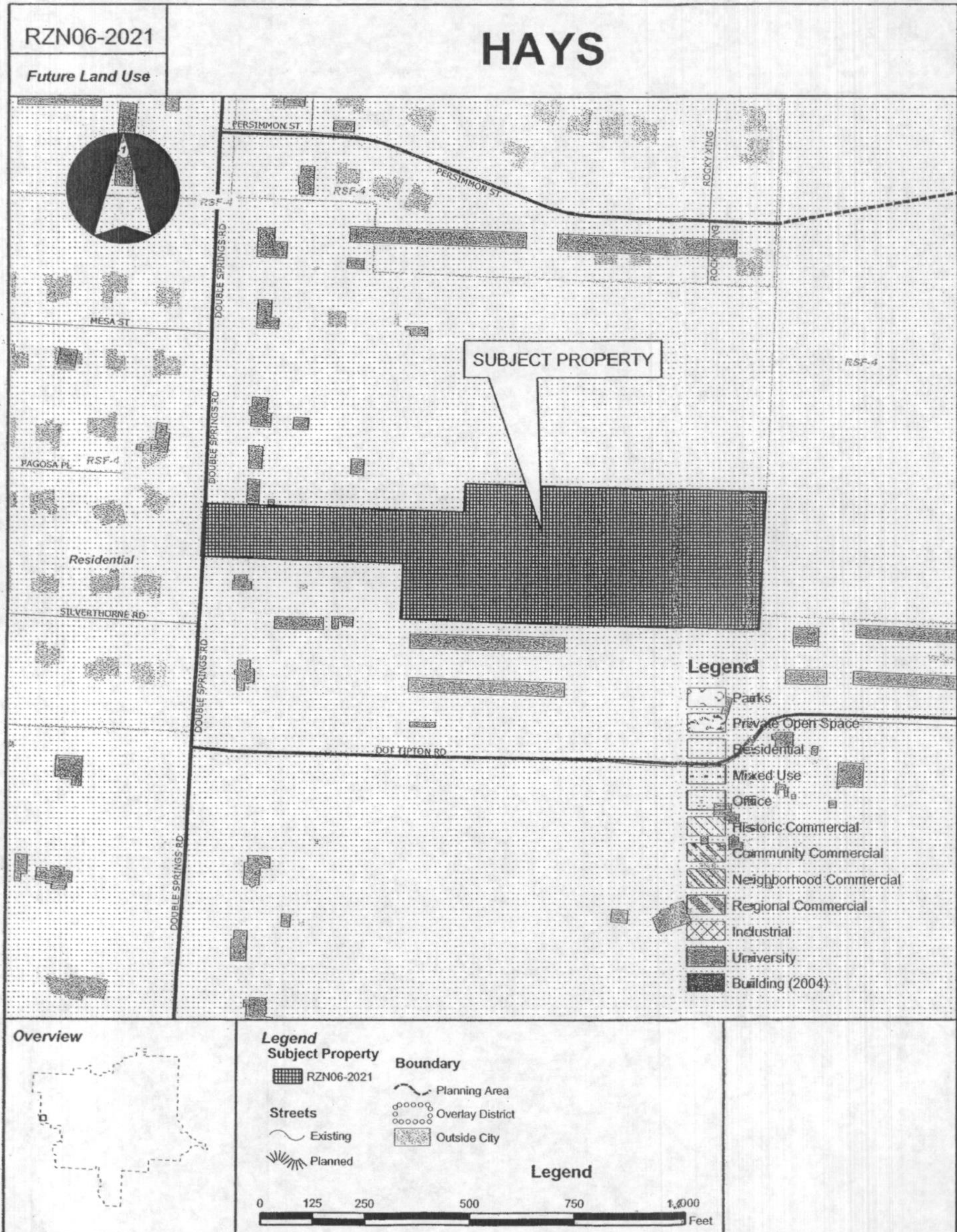
This 7.5 acre tract of land will support less than 20 single family homes. It will not appreciably increase traffic danger or congestion.

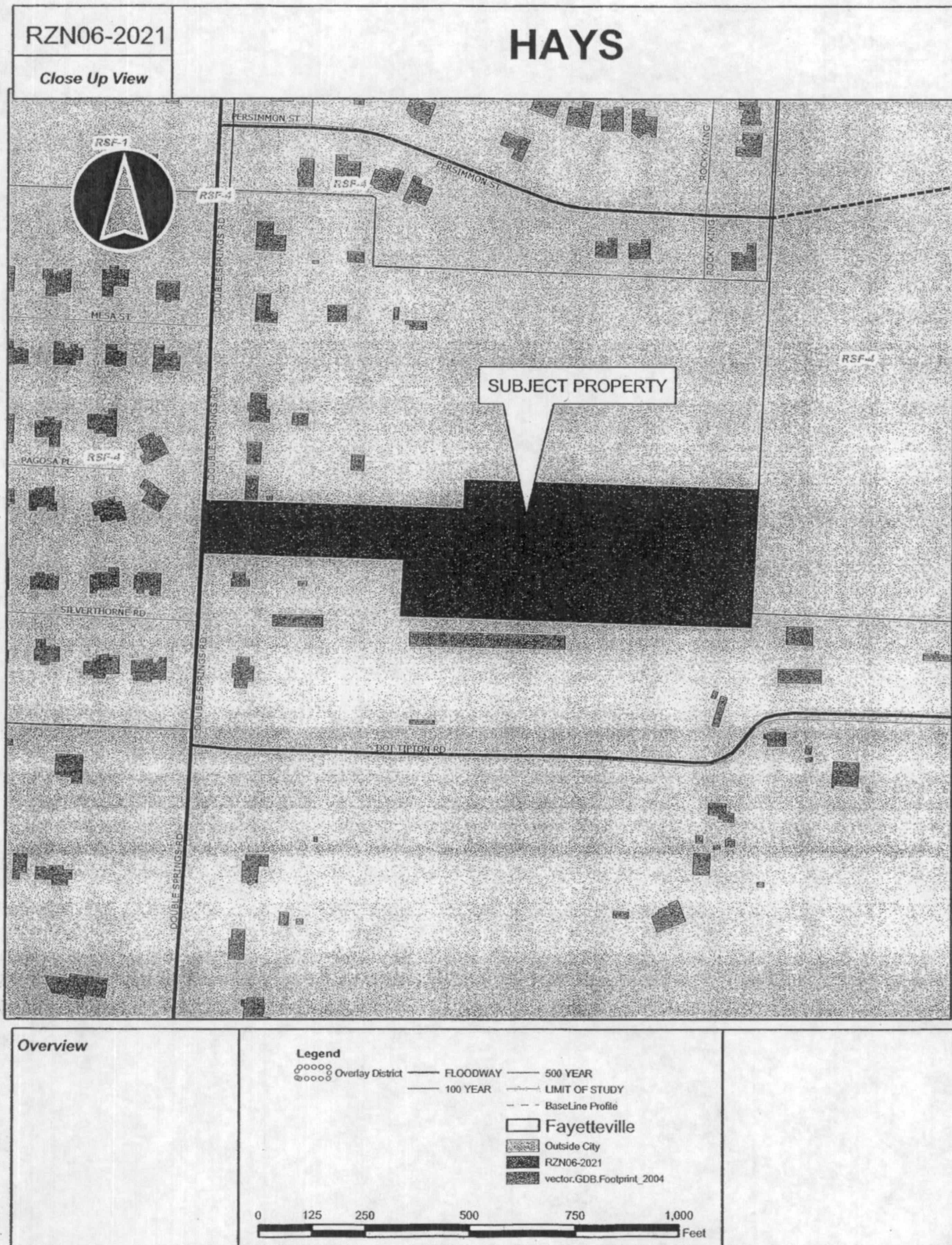
- 7d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water and sewer facilities.

Again, this 7.5 acre tract of land will support less than 20 single family homes. It will not appreciably alter the population density.

- 7e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

Because this land is in the County, it is not currently zoned.

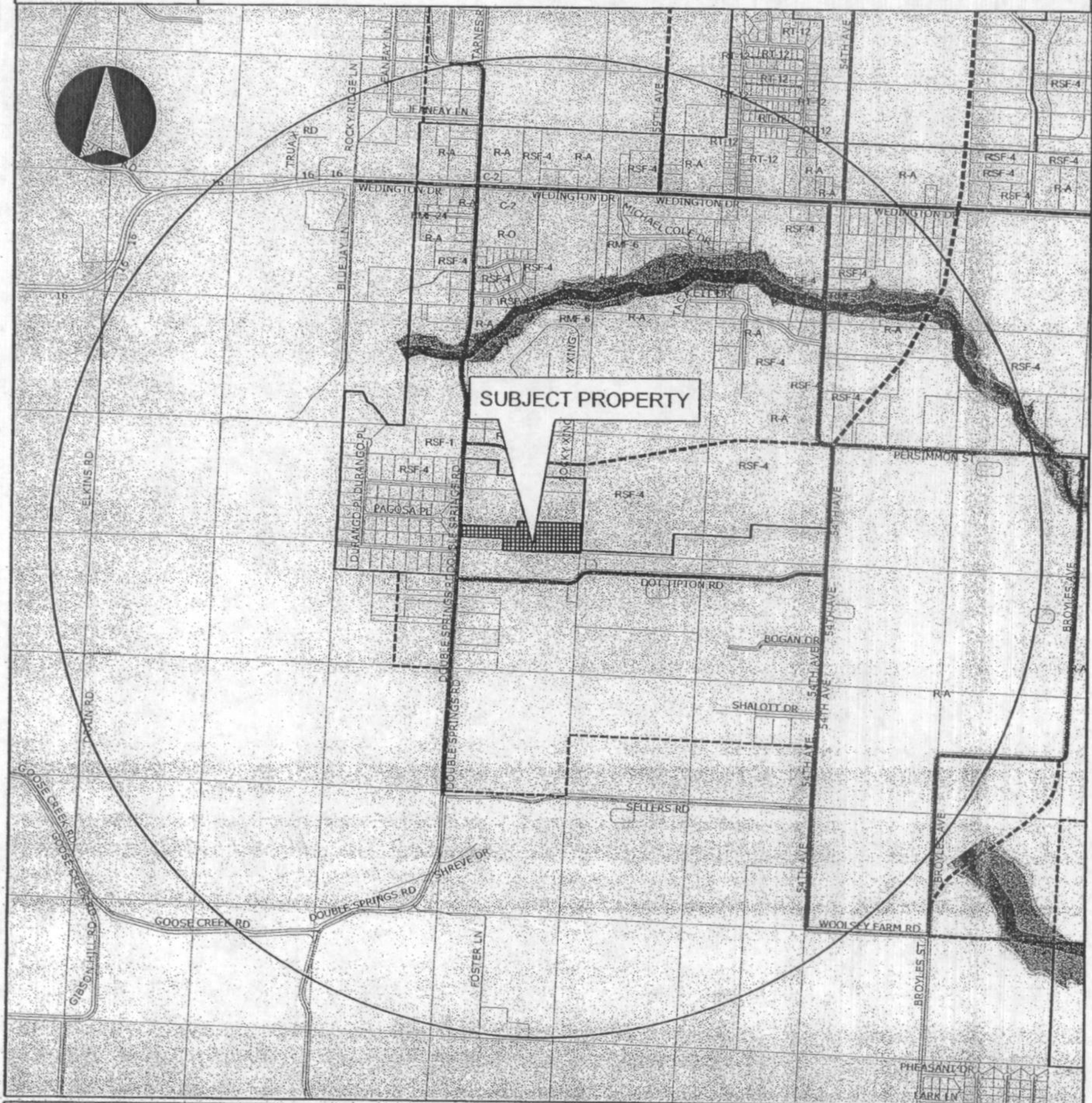




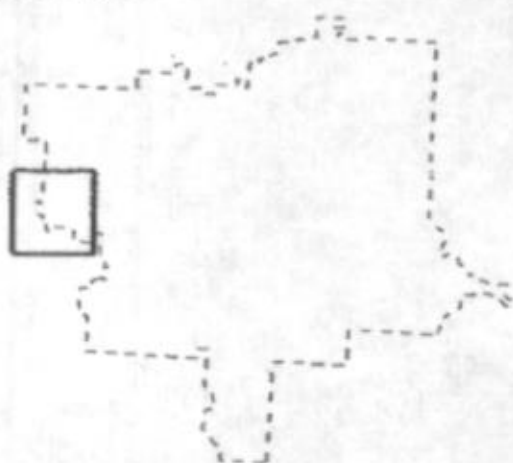
RZN06-2021

One Mile View

HAYS



Overview



Legend

Subject Property

RZN06-2021

Boundary

Planning Area

Overlay District

Outside City

0 0.125 0.25

0.5

Legend

0.75

1

Miles

Added at Agenda Session
ALDERMAN AGENDA REQUEST FORM

D. 4
ANX 06-2127 Williams
Page 1 of 24

6/27/06

7/6/06 Meeting

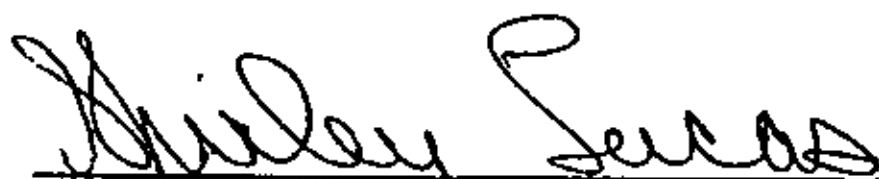
FOR: COUNCIL MEETING OF July 6, 2006

FROM: ALDERMAN SHIRLEY LUCAS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

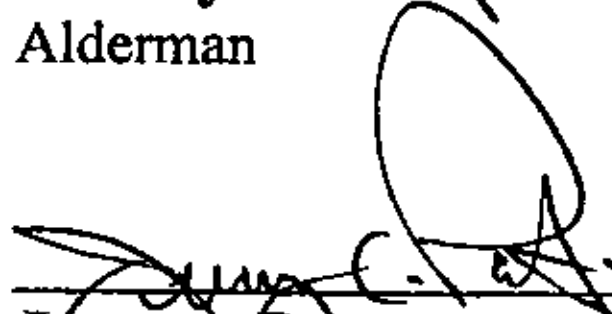
An Ordinance To Annex The Property Described In ANX 06-2127 (Williams)

APPROVED FOR AGENDA:



Shirley Lucas
Alderman

6-27-06
Date



Jeremy Pate
Director of Current Planning

06-27-06
Date



Kit Williams
City Attorney (as to form)

6-27-06
Date

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: June 27, 2006

Subject: Annexation for Williams (ANX 06-2127)

RECOMMENDATION

The Planning Commission recommended approval of the subject annexation request for approximately 1 acre of property located east of Double Springs Road, north of Dot Tipton Road.

BACKGROUND

The subject property contains approximately 1 acre and is located on Double Springs Road, north of Dot Tipton Road. The property is bordered to the north, east and west by the city limits – Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Adjacent property to the south, owned by Hays, as been recommended by the Planning Commission to be annexed into the city.

The applicant requests annexation of 1 acre into the city limits. There is an existing single family dwelling on the property. The applicant does not propose further development of the property at this time. When property is annexed into the City of Fayetteville, it is zoned R-A, Residential Agricultural. The bulk and area requirements for a single-family property within the R-A zoning district require a 2-acre parcel with 200' of lot width at the right-of-way. While the tract proposed for annexation does not meet these minimum bulk and area requirements, the applicant has not submitted an application requesting a zoning other than R-A. The existing structures and uses may continue, but are subject to the restrictions of nonconforming structures and uses.

Staff recommends approval of the requested annexation. The annexation of this tract and the adjoining 7.5-acre parcel to the south will "fill-in" an area of property already surrounded by the city limits and create a more appropriate city boundary.

DISCUSSION

This item was heard at the regular Planning Commission on June 26, 2006. The Planning Commission voted 8-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT
PROPERTY DESCRIBED IN ANNEXATION
PETITION ANX 06-2127 (CC2006-10), FOR
PROPERTY LOCATED EAST OF DOUBLE
SPRINGS ROAD, NORTH OF DOT TIPTON
ROAD, CONTAINING APPROXIMATELY 1
ACRE.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Four:

PASSED and APPROVED this ____ day of ____, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-2127

PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING 260 FEET NORTH OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT, THENCE EAST 622.30 FEET THENCE NORTH 70 FEET, THENCE WEST 622.30 FEET, THENCE SOUTH 70 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THAT PART EMBRACED IN THE TIPTON AND FARMINGTON ROAD ON THE WEST SIDE HEREOF

DRAFT



PC Meeting of June 26, 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
THRU: Jeremy Pate, Director of Current Planning
DATE: June 16, 2006

ANX 06-2127: (WILLIAMS, 474): Submitted by RANDY L. RITCHEY for property located at 340 S DOUBLE SPRINGS ROAD. The property is in the Planning Area and contains approximately 1.00 acre. The request is to annex the subject property into the City of Fayetteville.
Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested annexation of the 1-acre tract in to the City of Fayetteville.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: <u>June 26, 2006</u>	Motion: <u>Graves</u>	Second: <u>Ostner</u>	Vote: <u>8-0-0</u>
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>July 18, 2006</u> (1 st reading if recommended)			

BACKGROUND:

Property description: The subject property contains approximately 1 acre (70' x 622') and is located on Double Springs Road, north of Dot Tipton Road. The property is bordered to the north, east and west by the city limits, with the proposed Emerald Point Subdivision to the north, Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east.

Proposal: The applicant requests annexation of 1 acre into the city limits. There is an existing single family dwelling on the property. The applicant does not propose further development of the property at this time. When property is annexed into the City of Fayetteville, it is zoned R-A, Residential Agricultural. The bulk and area requirements for a single-family property within the R-A zoning district require a 2-acre parcel with 200' of lot width at the right-of-way. The applicant has not submitted an application requesting a zoning other than R-A; therefore, if annexed the 1-acre tract of property, with a 70' lot width adjacent to Double Springs Road, will become non-conforming. The existing structures and uses may continue, but are subject to the restrictions of nonconforming structures and uses.

Recommendation: Staff recommends approval of the requested annexation. The annexation of this tract and a 7.5-acre parcel to the south will "fill-in" an area of property already surrounded by the city limits and create a more appropriate city boundary.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes	RMF-6 (with Bill of Assurance)
South	Rural Single family homes	Planning Area
East	Vacant (Legacy Pt. Sub. under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Double Springs Road is an unimproved two-lane paved roadway at this property. Double Springs Road is proposed to be improved with the construction of the adjacent subdivisions.

Adjacent Streets: West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" waterline along Double Springs Road. Improvements to the water system may be required dependent upon the demand placed by the future development. Water service will need to be extended within the property at the time of development.

Sewer: Sanitary sewer is not available on the site. There is an 8" sewer line located in the adjacent subdivision to the west. There will also be access to sewer through the improvements required for the subdivision proposed for the property on the north side of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended to and within the property at the time of development. This property is within the Hamestring Creek Lift Station basin.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: This 1.0 acre is covered by Engine 7 located at 835 N Ruppel Road. The property is 2.4 miles from the station with an expected response time of 5.5 minutes. Measured hydrant flow in the area is 1465 gallons/minute. The Fire Department does not calculate projected calls for service on properties that are being annexed.

Police: It is the opinion of the Fayetteville Police Department that this annexation 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 the portion of this property within the Planning Area as **Residential**.

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: The requested annexation will not create an island of unincorporated property, nor will it create an unusual peninsula within the city. The annexation of this property in conjunction with the property to the south will create an appropriate city boundary. Staff finds that the proposed annexation satisfactorily meets the requirements in the annexation guideline policy.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the city limits along its north and west boundaries. The east and south property lines are adjacent to a tract of property proposed to be annexed into the city. The request does not extend the city limit boundary further south than the current limits reach.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not divide an existing neighborhood, though this narrow, deep lot will divide future subdivisions to the north and south of the property.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: The proposed boundaries follow existing property lines.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 5.5 minutes for fire protection from Fire Station #7. Extension of water and sewer lines shall occur at the time of development.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture with some wooded areas adjacent to Double Springs Road and along the fence line. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The property is currently developed for one single family dwelling and cannot be further developed without rezoning. The police department reports that this annexation 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.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Adjacent property to the west is currently serviced by public utilities. Property to the north will be developing and extending services to this property. If reasonably accessible, the applicant shall tie into these services in accordance with ordinance requirements.

Water, fire and police protection are currently provided in this area. The property is adjacent to city limits, to which utilities and other public service providers already respond.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. As it exists, annexation of the property would

not require the upgrading of utilities unless and until additional development that increases the demand on public services is proposed. If certain utilities are accessible, the owner may be required to tie the existing home onto these services.

- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners have not submitted a rezoning request at this time.

- 11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

- 11.6.q Development proposals require a separate review from the annexation proposals.

Finding: No development proposal has been submitted to the City of Fayetteville. Any request to develop or subdivide this property requires staff review and approval by the Planning Commission.

- 11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: Property recently annexed to the north began to incorporate portions of county property located between the city limits. This request will further "fill in" the city limits to the south, between Silverthorne and Legacy Pointe IV Subdivisions. City policy encourages annexation of larger annexations to create acceptable boundaries, and staff finds that the proposed annexation in conjunction with ANX 06-2020 (Hays) will create a suitable city boundary.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 1 acre.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Asst Chief Bud Thompson
From: Captain Dale Riggins
Date: June 19, 2006
Re: June 19, 2006 Zoning Review – Fire Department Comments

ANX06-2127 (Williams)

This 1.0 acre is covered by Engine 7 located at 835 N Ruppel Road.
The property is 2.4 miles from the station with an expected response time of 5.5 minutes
Measured hydrant flow in the area is 1465 gallons/minute.
We do not figure projected calls for service on properties that are being annexed.

Please feel free to contact me if you have any questions

Dale Riggins
IT/Planning
Fayetteville Fire Department



Williams
ANX06-2127

June 19, 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 Annexation **ANX 06-2127: (WILLIAMS, 474)**: Submitted by RANDY L. RITCHEY, for property located at 340 S. DOUBLE SPRINGS RD would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property is in the planning area and contains approximately 1 acre. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: ANX06-2127 Williams Return by: 6/2
Parcel: 001-11827-800

Plat Page#: 474
Section: 15
Township: 16
Range: 31

Current Zoning: County
Proposed Zoning: R-AT

Submittal: 1st 2nd 3rd

Closure error / comments: OK closure

ARE THEY ANNEXING THE ROAD OR NOT ?
WILL LEAVE GAP IF THEY 'LESS AND EXCEPT ROAD.

Has the applicant been contacted with requested revisions:

YES

NO

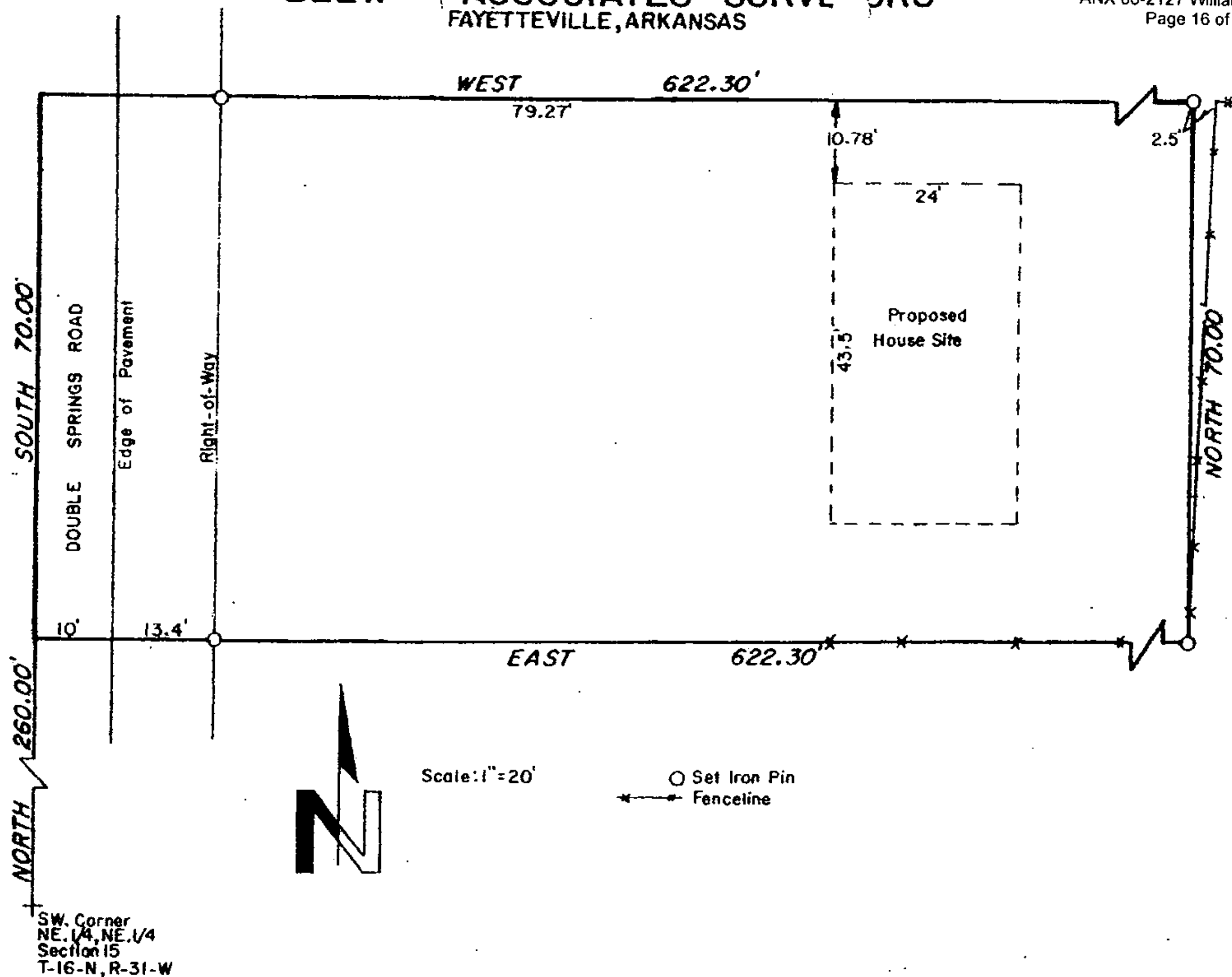
Checked by: CR

Date shape file was created:

5.31.2006

BLEW ASSOCIATES-SURVEYORS
 FAYETTEVILLE, ARKANSAS

D. 4
 ANX 06-2127 Williams
 Page 16 of 24



Surveyed For: Fletcher Williams
 Date: November 1, 1982

LEGAL DESCRIPTION:

Part of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 15, Township 16 North, Range 31 West, and being more particularly described as follows, to-wit: Beginning 260 feet North of the Southwest corner of said forty acre tract, thence East 622.3 feet, thence North 70 feet, thence West 622.3 feet, thence South 70 feet to the point of beginning, less and except that part embraced in the Tipton and Farmington Road on the West side hereof.

CERTIFICATION:

I hereby certify this to be true and correct to the best of my knowledge and belief on the 1st day of November, 1982.

FRANK W. BLEW, JR.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

**IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS**

NO. CC2006-10

NOTICE

Notice is hereby given that **MICHAEL R. WILLIAMS** ^{Has}~~have~~ petitioned Washington County, Arkansas, that the real property, described immediately below, situated in Washington County, Arkansas, be annexed into the City of Fayetteville, Arkansas. The real property is described as:

ANNEXATION DESCRIPTION:

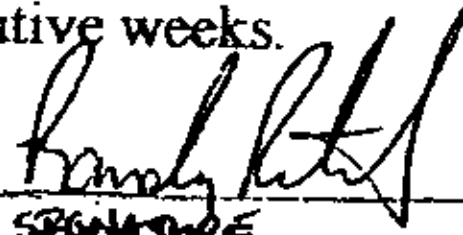
LEGAL DESCRIPTION:

PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING 260 FEET NORTH OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT, THENCE EAST 622.30 FEET THENCE NORTH 70 FEET, THENCE WEST 622.30 FEET, THENCE SOUTH 70 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THAT PART EMBRACED IN THE TIPTON AND FARMINGTON ROAD ON THE WEST SIDE HEREOF.

6 That a hearing on this Petition has been set for the 15th day of MAY, 2007, at 10:00A m. before the Honorable Jerry Hunton at the Washington County Courthouse.

Any person interested may be present and present testimony for or against said Petition.

This notice will be published once a week for three consecutive weeks.



SIGNATURE

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUTY, ARKANSAS

NO. CC2006-10

ORDER SETTING HEARING DATE

On this 6th day of April, 2006, upon Petition to annex certain property into the City of Fayetteville, Washington County, Arkansas, pursuant to A.C.A. Section 14-40-601. The Court finds as follows:

2006 APR - 6 PM 1:14
FILED
U.S. & F.R. CO. ARK.
WASHINGTON CO. ARK.

1. That Jerry Hunton, Washington County Judge, has consented and approved the Petition, and pursuant to A.C.A. Section 14-40-601, the Court hereby sets a hearing date on the Petition for the 5th day of May, 2006 at 10:00 A.m. at the Washington County Courthouse. And Petitioners are directed to cause a notice of hearing to be published in a newspaper of general circulation in Washington County, Arkansas, as is required by law.

IT IS SO ORDERED


JERRY HUNTON, County Judge

FROM

(THU) APR 6 2006 15 /ST.

D. 4
ANX 06-2127 Williams
Page 19 of 24

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS
IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS

NO. CC200

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

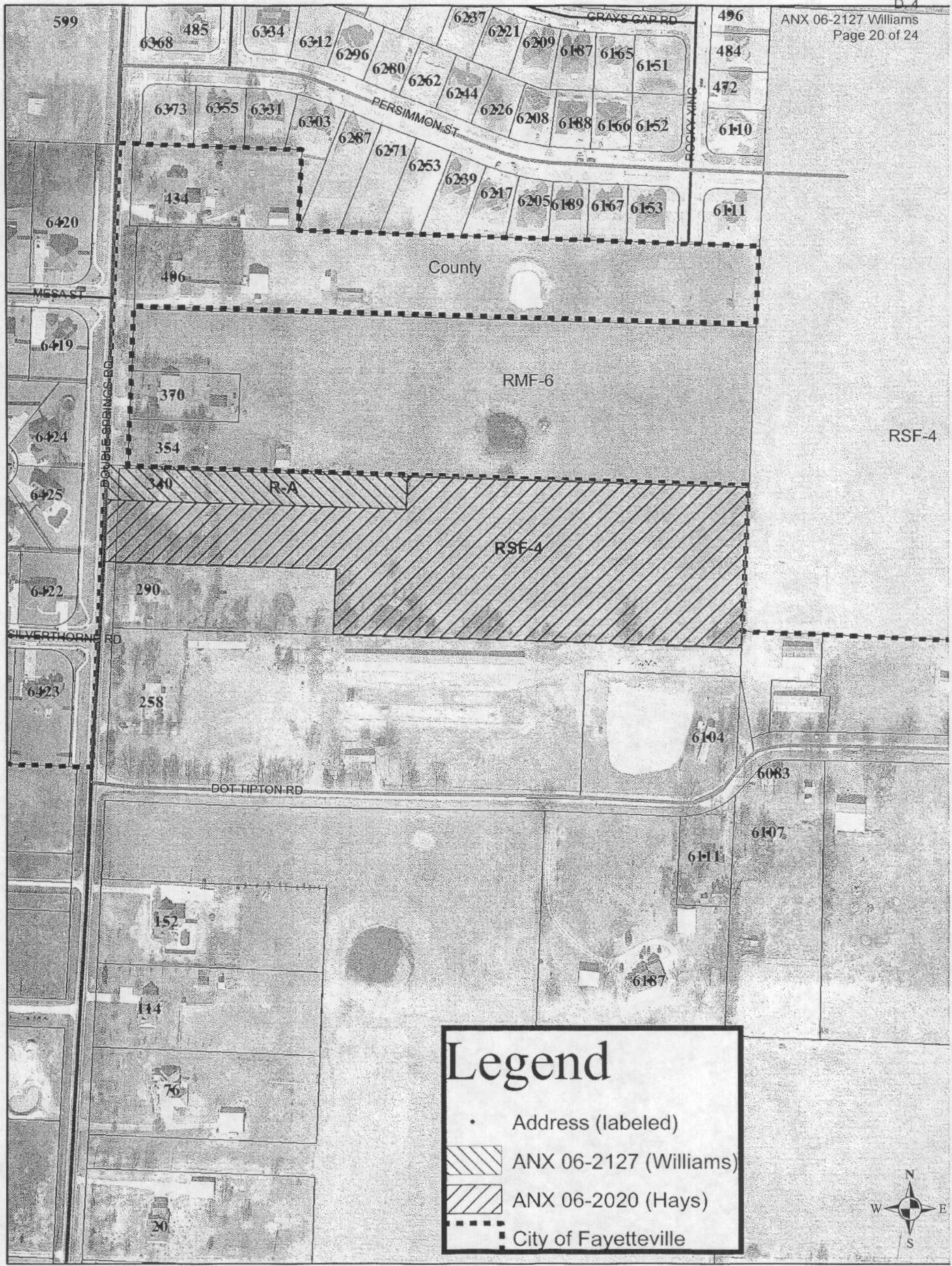
The Petitioners, MICHAEL R. WILLIAMS hereby submit their Petition to annex certain real property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

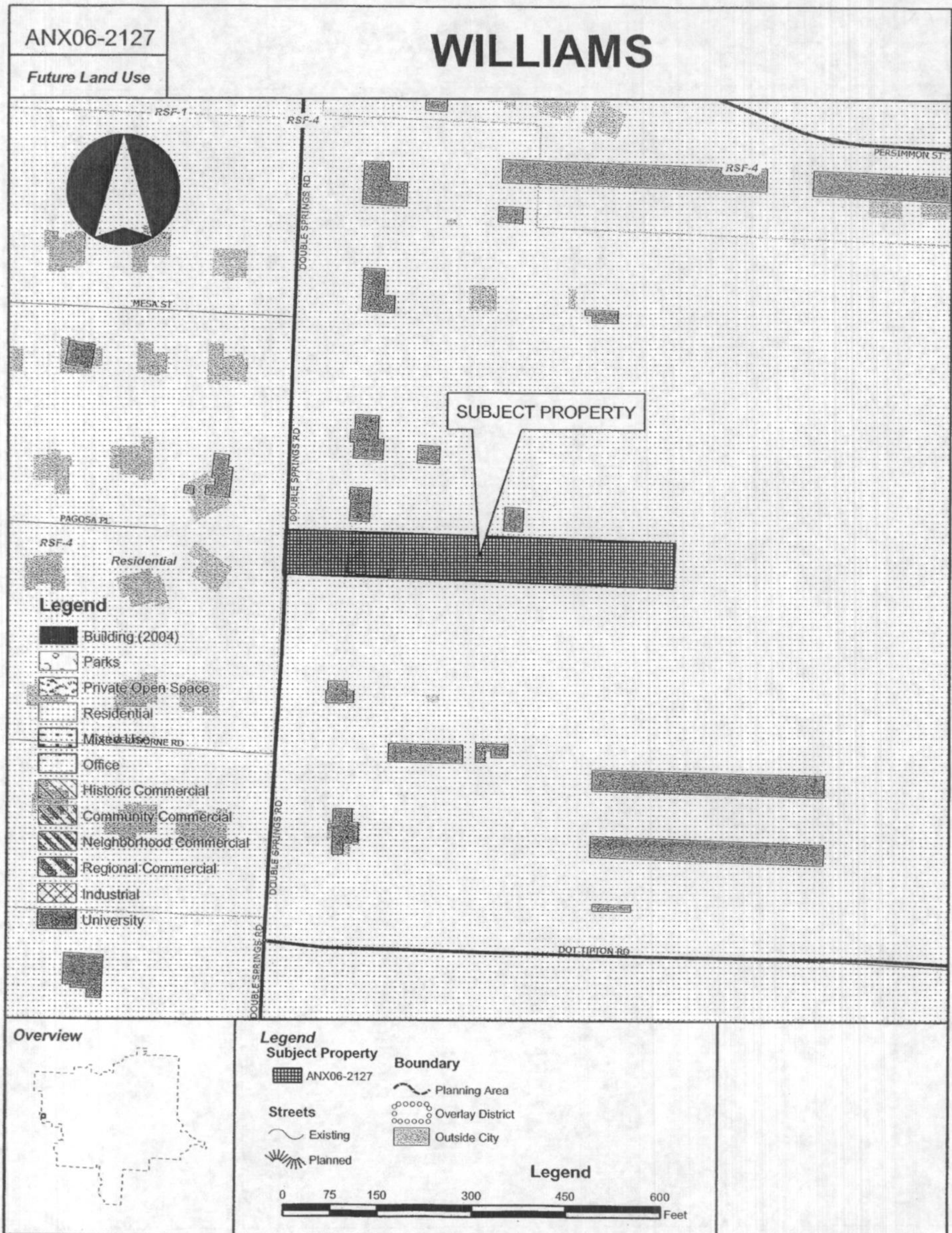
1. That Petitioners own the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and said Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas.
2. The Petitioners name RANDY RETCHEY as persons authorized to act on their behalf with respect to this Petition.
3. The Petitioners desire that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the Real Property into the City of Fayetteville.
4. A true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas, is shown on the Plat Map, Exhibit "A", attached hereto.

CO. & PROB. CLERK
WASHINGTON CO.
ARK.

2006 APR -6 AM 10:59

FILED

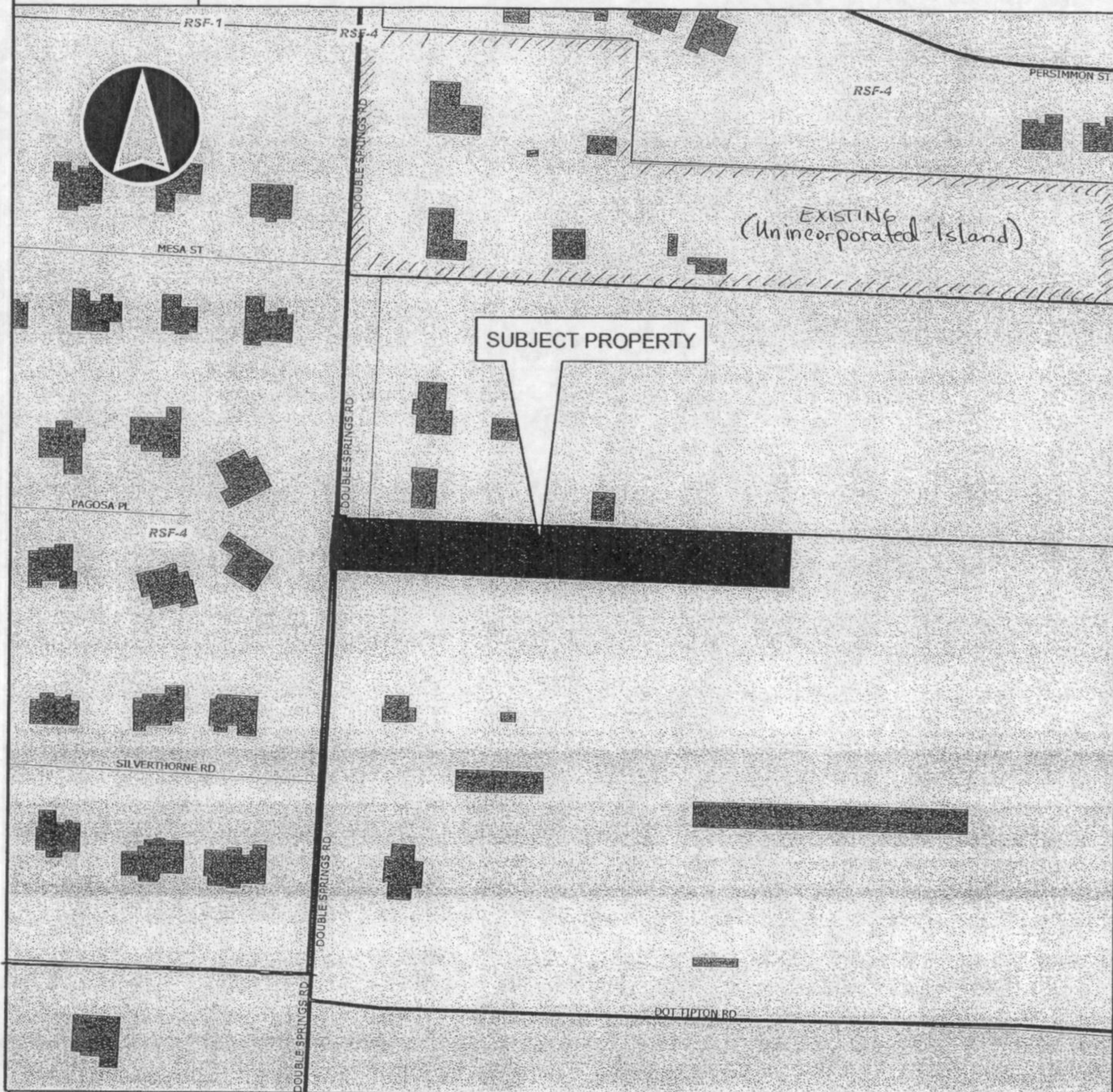




ANX06-2127

Close Up View

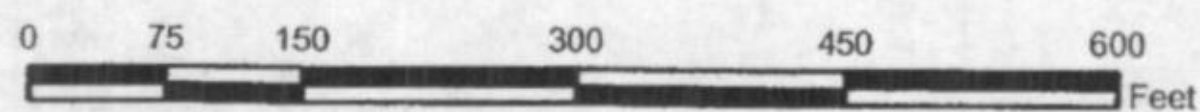
WILLIAMS



Overview

Legend

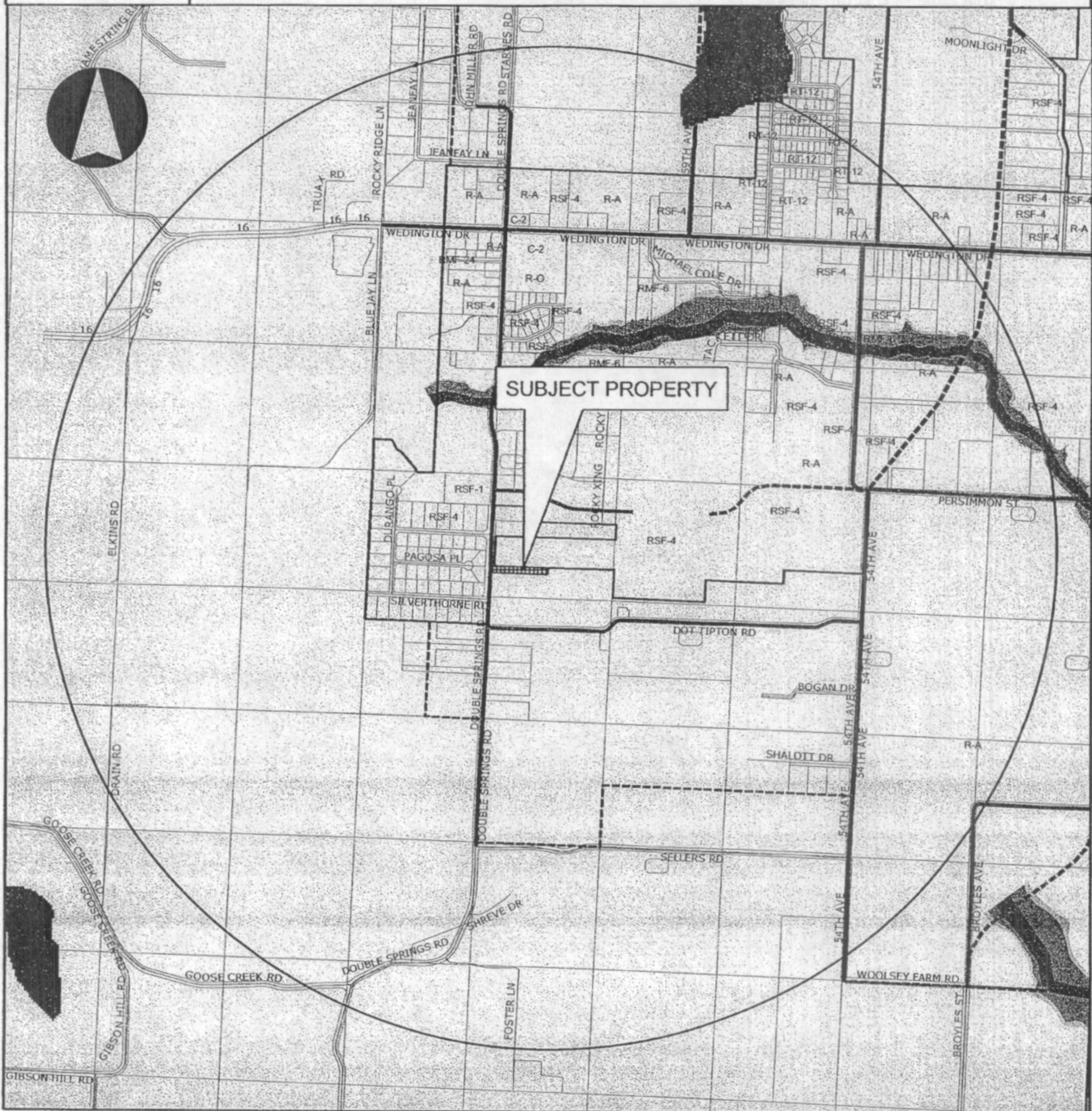
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- ANX06-2127
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



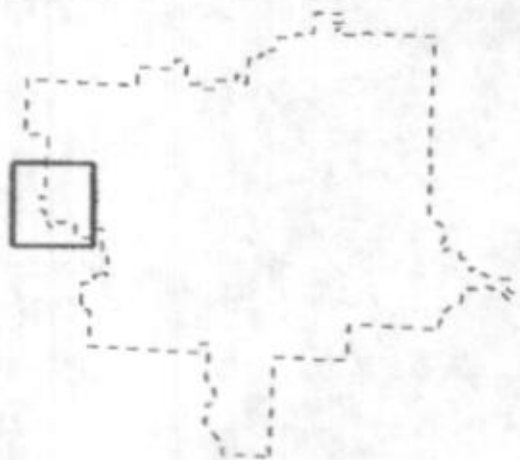
ANX06-2127

One Mile View

WILLIAMS



Overview



Legend

Subject Property

ANX06-2127

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25

0.5

0.75

1

Miles

City of Fayetteville
Staff Review Form

Added at Agenda Session
Bossler Contracting, Inc.
Page 1 of 26
6/27/06
7/6/06 Meeting

July 6, 2006
City Council Meeting Date

Coy Hurd

Submitted By

Building Services

Division

Operations

Department

Action Required:

The required action is for the City Council to accept Bossler Contracting, Inc.'s bid of \$1,466,000 for the construction of Fire Station Five, and authorize a project contingency fund of \$117,280 (total of \$1,583,280).

\$1,583,280

Cost of this request

\$

1,850,000.00

Category / Project Budget

Fire Station Five

Program Category / Project Name

4470-9470-5804-00

Account Number

\$

73,283.00

Funds Used to Date

Fire Improvements

Program / Project Category Name

05007.1

Project Number

\$

1,776,717.00

Remaining Balance

Sales Tax Improvement Fund

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

ENTERED

6/26/06

Finance and Internal Service Director

Date

Received in Mayor's Office

ENTERED

6/26/06

Mayor

Date

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

D. 5
Bossler Contracting, Inc.
Page 2 of 26

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and the Fayetteville City Council

THROUGH: Gary Dumas, Operations Director

FROM: Coy Hurd, Project Manager 

DATE: June 26, 2006

SUBJECT: Construction Contract, Fire Station Five

Recommendation:

Staff recommends the consideration, approval, and signing of the attached contract for the construction of Fire Station Five in the amount of \$1,466,000, and the authorization of an eight percent project contingency fund of \$117,280 (total: \$1,583,280).

Background:

On June 20th a competitive bid was held for the construction of Fire Station Five to be located at Old Wire and Crossover in Fayetteville. Three valid bids were received and opened on that date. The apparent low bidder was Bossler Contracting, Inc. of Siloam Springs. The low bid for the 5,500 square feet project was \$1,466,000.

Discussion:

This project was within the budgeted funds. Staff recommends that the City sign the contract and issue a *Notice to Proceed* to Bossler Contracting.

Budgetary Impact:

The cost of this request is a budgeted item and sufficient funds reside in account number 4470-9470-5804.00

The project is funded with a bond issue (See attached ordinance).

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH BOSSLER CONTRACTING, INC. IN THE AMOUNT OF \$1,466,000.00 FOR CONSTRUCTION OF FIRE STATION #5; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$117,280.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire Station #5. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of \$117,280.00.

PASSED and APPROVED this 6th day of July, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

ORDINANCE NO. 4880

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.

Page 5
Ord. No. 4880

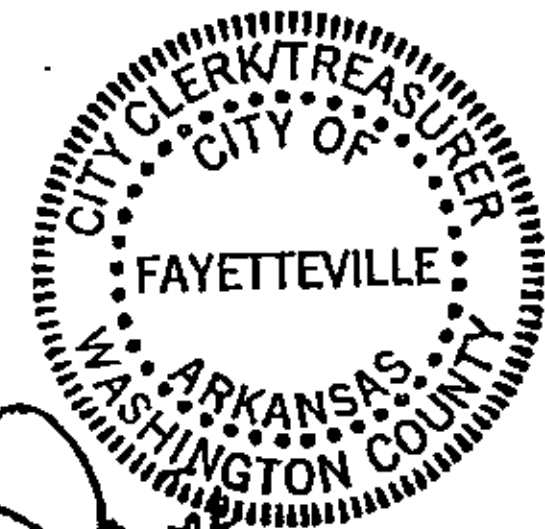
PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



AIA® Document A101™ – 1997

Standard Form of Agreement Between Owner and Contractor *where the basis of payment is a STIPULATED SUM*

AGREEMENT made as of the _____ day of _____ in the year of _____
(In words, indicate day, month and year)

BETWEEN the City of Fayetteville:
(Name, address and other information)

City of Fayetteville
113 West Mountain
Fayetteville, Arkansas

and the Contractor:
(Name, address and other information)

Bossler Contracting Inc.
116 S. Broadway
Siloam Springs, Arkansas
Telephone Number (479) 549-3971
Fax Number (479) 549-3972

The Project is:
(Name and location)

City of Fayetteville - Fire Station No 5
Crossover & Old Wire Roads
Fayetteville, AR 72701

The Architect is:
(Name, address and other information)

Wittenberg, Delony & Davidson, Inc
2434 East Joyce Blvd., Suite 10
Fayetteville, AR 72703
Telephone Number: (479) 442-6681
Fax Number: (479) 251-0231

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the City of Fayetteville *(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

The commencement date will be fixed in a notice to proceed. Including all days, holidays and other calendar days.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 300 days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Million, Four Hundred Thousand, Sixty Six and no/100 dollars (\$ 1,466,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the City of Fayetteville:
(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

No alternates are taken

§ 4.3 Unit prices, if any, are as follows:

Description	Units	Price (\$ 0.00)
Trench Safety	Lump Sum	\$1,000.00
Undercut	Cubic Yards	\$9.00
Select Fill, Placement & Compaction	Cubic Yards	\$19.20

The City of Fayetteville reserves the right to negotiate all Unit Prices that are not in line with industry standards and normal Construction Industry Practices.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the City of Fayetteville shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 30th day of a month, the City of Fayetteville shall make payment to the Contractor not later than the 30th day of the next month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the City of Fayetteville not later than Thirty (30) days after the Architect processes and sends to the City of Fayetteville the Application for Payment.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten (10%). Pending final determination of cost to the City of Fayetteville of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the City of Fayetteville, suitably stored off the site at a location agreed upon in writing), less retainage of Ten (10%); Storage of materials in a Sub-Contractor, Vendor or others company warehouse is not sufficient to be a claim for stored materials and will not be made a part of any Payment Application. Only materials stored at the site will qualify as stored materials for payment.
- .3 Subtract the aggregate of previous payments made by the City of Fayetteville; and

- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-1997.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Any reduction in retainage amount as provided by State Law or otherwise will only be made if the City of Fayetteville is in agreement that the Work has progressed with satisfactory (to the City of Fayetteville) workmanship and proper progress in execution of the work has been attained. Written consent of Surety to reduction in Retainage must be provided by the Contractor.

§ 5.1.9 Except with the City of Fayetteville's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.
- .3 The Contractor has completed all project "close-out" requirements as stated in the Contract Documents including as-built record documents, lien releases from all sub-contractors, major vendors and suppliers and all other requirements indicated in the Contract Documents.

§ 5.2.2 The City of Fayetteville's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

5.2.3 No issuance of a Progress Payment, Final Payment Application or payment of such by the City of Fayetteville, nor partial nor entire occupancy of the Work by the City will release the Contractor, Sub-Contractor or other(s) from the requirement to provide the Work in full accordance with the Contract Documents, or shall be construed as acceptance of any Work or materials not in accordance with this Agreement and the Contract Documents.

ARTICLE 6 TERMINATION OR SUSPENSION

§ 6.1 The Contract may be terminated by the City of Fayetteville or the Contractor as provided in Article 14 of AIA Document A201-1997.

§ 6.2 The Work may be suspended by the City of Fayetteville as provided in Article 14 of AIA Document A201-1997.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

() per annum None. The City of Fayetteville can not pay interest.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the City of Fayetteville's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

§ 7.3 The Owner's representative is:
(Name, address and other information)

Dr. Coy Hurd
113 West Mountain
Fayetteville, Arkansas

§ 7.4 The Contractor's representative is:
(Name, address and other information)

Robert Bass
116 S Broadway
Siloam Springs, Arkansas

§ 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 7.6 Other provisions:

7.6.1 Increase in the price or fees of this Agreement shall not be allowed without a prior, formal Change Order approved by the Mayor and City Council in advance of the increase in the cost of the Work.

7.6.2 Freedom of Information Act Compliance. City contracts and documents prepared while performing City Work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville the Contractor will do everything possible to provide the documents requested to the City in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101et.seq.). Only legally authorized photocopying costs pursuant to an FOA to the City of Fayetteville may be assessed for this compliance. No cost for labor or time in complying with the photocopying costs shall be assessed.

ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

§ 8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

§ 8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

§ 8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

§ 8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows

Document	Title	Pages
See Attachment "A"		

§ 8.1.4 The Specifications are those contained in the Project Manual dated as in Section 8.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Title of Specifications exhibit: See Attachment "A"

(Rows deleted)

§ 8.1.5 The Drawings are as follows, and are dated unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Title of Drawings exhibit: See Attachment "B"

(Rows deleted)

§ 8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
No 1	6/16/06	4 with attachments C0.0, C1.1, C1.2, C1.3, C1.4, L1.1, C5.0, ADD1.01, ADD 1.02 and Document 16720

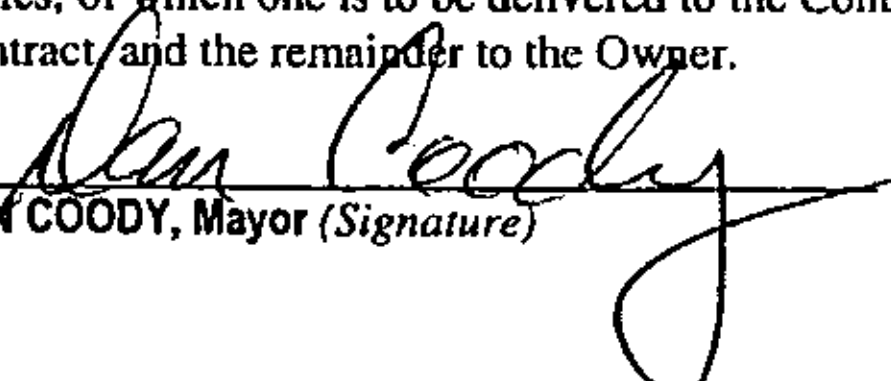
Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

§ 8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

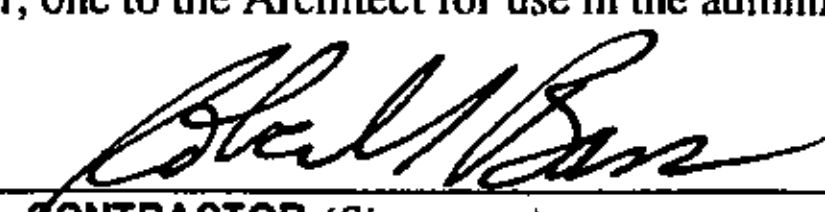
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

All Division "0" (Bidding) items are part of this Agreement in are listed in Attachment "A"

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.


DAN COODY, Mayor (Signature)

(Printed name and title)


CONTRACTOR (Signature)

Robert L. Bass
VP-Operations

(Printed name and title)

Attest:

Sondra Smith, City Clerk

Additions and Deletions Report for AIA® Document A101™ – 1997

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:40:47 on 06/23/2006.

PAGE 1

BETWEEN the Owner: City of Fayetteville:

...
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas

...
Bossler Contracting Inc.
116 S. Broadway
Siloam Springs, Arkansas
Telephone Number (479) 549-3971
Fax Number (479) 549-3972

...
City of Fayetteville - Fire Station No 5
Crossover & Old Wire Roads
Fayetteville, AR 72701

...
Wittenberg, Delony & Davidson, Inc
2434 East Joyce Blvd., Suite 10
Fayetteville, AR 72703
Telephone Number: (479) 442-6681
Fax Number: (479) 251-0231

PAGE 2

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by ~~the Owner: the City of~~ Fayetteville

...
The commencement date will be fixed in a notice to proceed. Including all days, holidays and other calendar days.

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§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 300 days from the date of commencement, or as follows:

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...
§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the ~~Owner: City of Fayetteville:~~

PAGE 3

No alternates are taken

<u>Trench Safety</u>	<u>Lump Sum</u>	<u>\$1,000.00</u>
<u>Undercut</u>	<u>Cubic Yards</u>	<u>\$9.00</u>
<u>Select Fill, Placement & Compaction</u>	<u>Cubic Yards</u>	<u>\$19.20</u>

The City of Fayetteville reserves the right to negotiate all Unit Prices that are not in line with industry standards and normal Construction Industry Practices.

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§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 30th day of a month, the Owner-City of Fayetteville shall make payment to the Contractor not later than the 30th day of the next month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner-City of Fayetteville not later than Thirty (30) days after the Architect receives-processes and sends to the City of Fayetteville the Application for Payment.

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten (10%). Pending final determination of cost to the Owner-City of Fayetteville of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner-City of Fayetteville, suitably stored off the site at a location agreed upon in writing), less retainage of Ten (10%); Storage of materials in a Sub-Contractor, Vendor or others company warehouse is not sufficient to be a claim for stored materials and will not be made a part of any Payment Application. Only materials stored at the site will qualify as stored materials for payment.

.3 Subtract the aggregate of previous payments made by the Owner-City of Fayetteville; and

PAGE 4

Any reduction in retainage amount as provided by State Law or otherwise will only be made if the City of Fayetteville is in agreement that the Work has progressed with satisfactory (to the City of Fayetteville) workmanship and proper progress in execution of the work has been attained. Written consent of Surety to reduction in Retainage much be provided by the Contractor.

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§ 5.2.2 The Owner's-City of Fayetteville's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

5.2.3 No issuance of a Progress Payment, Final Payment Application or payment of such by the City of Fayetteville, nor partial nor entire occupancy of the Work by the City will release the Contractor, Sub-Contractor or other(s) from the requirement to provide the Work in full accordance with the Contract Documents, or shall be

construed as acceptance of any Work or materials not in accordance with this Agreement and the Contract Documents.

§ 6.1 The Contract may be terminated by the Owner City of Fayetteville or the Contractor as provided in Article 14 of AIA Document A201-1997.

PAGE 5

§ 6.2 The Work may be suspended by the Owner City of Fayetteville as provided in Article 14 of AIA Document A201-1997.

() per annum None. The City of Fayetteville can not pay interest.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's City of Fayetteville's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

Dr. Coy Hurd
113 West Mountain
Fayetteville, Arkansas

Robert Bass
116 S Broadway
Siloam Springs, Arkansas

7.6.1 Increase in the price or fees of this Agreement shall not be allowed without a prior, formal Change Order approved by the Mayor and City Council in advance of the increase in the cost of the Work.

7.6.2 Freedom of Information Act Compliance. City contracts and documents prepared while performing City Work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville the Contractor will do everything possible to provide the documents requested to the City in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101et.seq.). Only legally authorized photocopying costs pursuant to an FOA to the City of Fayetteville may be assessed for this compliance. No cost for labor or time in complying with the photocopying costs shall be assessed.

PAGE 6

See Attachment "A"

Title of Specifications exhibit: See Attachment "A"

Section	Title	Pages
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Title of Drawings exhibit: See Attachment "B"

Number	Title	Date
<u>No 1</u>	<u>6/16/06</u>	<u>4 with attachments C0.0, C1.1, C1.2, C1.3, C1.4, L1.1, C5.0, ADD1.01, ADD 1.02 and Document 16720</u>

...
All Division "0" (Bidding) items are part of this Agreement in are listed in Attachment "A"

...
OWNER-DAN COODY, Mayor (Signature)

CONTRACTOR (Signature)

...
Attest:

Sondra Smith, City Clerk

Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, Richard Alderman, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:40:47 on 06/23/2006 under Order No. 1000187539_5 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 1997 - Standard Form of Agreement Between Owner and Contractor where the basis of payment is a STIPULATED SUM, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

R. Alderman
(Signed)

V.P.
(Title)

6.23.06
(Dated)

FAYETTEVILLE FIRE STATION NO. 5
FAYETTEVILLE, ARKANSAS
WDD JOB # 06-007
"ATTACHMENT A"
Page 1 of 3

General Supplementary and other Conditions of the Contract are those contained in the Project Manual dated May 15, 2006, and are as follows:

DOCUMENT NO.	TITLE
00100	BID SOLICITATION
00200	INSTRUCTIONS TO BIDDERS
00300	WAGE RATES
00310	OSHA GUIDELINES FOR TRENCH SAFETY
00320	GEOTECHNICAL DATA
00330	EXISTING CONDITIONS
00400	BID FORM
00600	BONDS
00700	GENERAL CONDITIONS
00800	SUPPLEMENTARY CONDITIONS

The Specifications are those contained in the Project Manual dated May 15, 2006, and are as follows:

SECTION NO.	TITLE
01100	SUMMARY OF WORK
01210	ALLOWANCES
01230	ALTERNATES
01300	SUBMITTALS AND SUBSTITUTIONS
01450	TESTING LABORATORY SERVICES
01500	TEMPORARY FACILITIES AND CONTROLS
01640	OWNER FURNISHED PRODUCTS
01700	CLEANING
02200	SITE PREPARATION
02220	DEMOLITION AND REMOVAL OF FACILITIES
02231	CLEARING AND GRUBBING
02300	EARTHWORK
02310	EARTHWORK - UNIT PRICING
02315	TRENCH AND EXCAVATION, BACKFILL AND COMPACTING
02316	STONE BACKFILL
02317	BORROW
02360	TERMITE CONTROL
02375	TEMPORARY EROSION CONTROL
02630	DRAINAGE PIPING
02722	AGGREGATE BASE COURSE
02746	ASPHALTIC CONCRETE PAVING

02748	PORTLAND CEMENT CONCRETE PAVING
02765	PAVEMENT MARKINGS
02770	CONCRETE CURBS AND SIDEWALKS
02832	MORTARLESS RETAINING WALLS
02810	LANDSCAPE SPRINKLER SYSTEM
02923	SEEDING
02924	SODDING
02934	TREES, SCRUBS AND GROUND COVER
03100	CONCRETE FORM WORK
03200	CONCRETE REINFORCEMENT
03300	CAST-IN-PLACE CONCRETE
03450	ARCHITECTURAL PRECAST CONCRETE
03600	CONCRETE GROUTING AND PATCHING
04100	MORTAR
04150	MASONRY ACCESSORIES
04200	UNIT MASONRY
05100	STRUCTURAL STEEL
05200	METAL JOISTS
05300	METAL DECKING
05500	MISCELLANEOUS METAL
05550	STEEL STAIRS AND PIPE RAILING
06100	ROUGH CARPENTRY
06200	FINISH CARPENTRY
06400	ARCHITECTURAL WOODWORK
07150	DAMPPROOFING
07200	INSULATION
07410	STANDING SEAM METAL ROOFING
07525	MODIFIED BITUMEN SHEET ROOFING
07600	FLASHING AND SHEET METAL
07700	ROOF SPECIALTIES AND ACCESSORIES
07850	FIRESTOPPING
07900	JOINT SEALANTS
08100	METAL DOORS AND FRAMES
08200	WOOD DOORS
08350	OVERHEAD DOORS
08400	ENTRANCES, STOREFRONTS, AND WINDOWS
08700	HARDWARE
08800	GLAZING
09250	GYPSUM DRYWALL
09260	SHEATHING
09310	TILE
09510	ACOUSTICAL CEILINGS
09650	RESILIENT FLOORING
09690	CARPET TILES
09900	PAINTING
10350	FLAGPOLES
10400	IDENTIFYING DEVICES
10440	INTERIOR SIGNAGE

10520	FIRE PROTECTION SPECIALTIES
10800	TOILET AND BATH ACCESSORIES
10950	MISCELLANEOUS SPECIALTIES
11450	RESIDENTIAL EQUIPMENT
12490	HORIZONTAL BLINDS
15010	GENERAL MECHANICAL REQUIREMENTS
15250	MECHANICAL INSULATION
15330	WET PIPE SPRINKLER SYSTEM
15411	SANITARY DRAIN, WASTE, AND VENT PIPING SYSTEM
15412	DOMESTIC WATER PIPING SYSTEM
15413	NATURAL GAS PIPING SYSTEM
15440	PLUMBING FIXTURES AND TRIM
15456	GAS FIRED WATER HEATERS - COMMERCIAL GRADE
15624	GAS FIRED INFRA-RED HEATERS, NON-CONDENSING TYPE
15627	ELECTRIC INFRA-RED HEATERS
15629	ELECTRIC UNIT HEATERS
15781	PACKAGED ROOFTOP AIR CONDITIONING UNITS - CONSTANT VOLUME
15860	FANS
15865	VEHICLE EXHAUST REMOVAL SYSTEM
15890	LOW PRESSURE DUCTWORK AND ACCESSORIES
16010	GENERAL ELECTRICAL REQUIREMENTS
16110	RACEWAYS
16120	WIRES AND CABLES
16130	BOXES AND ENCLOSURES
16140	WIRING DEVICES
16170	DISCONNECT SWITCHES
16190	SUPPORTING DEVICES
16195	ELECTRICAL IDENTIFICATION
16421	UNDERGROUND ELECTRICAL SERVICES
16422	TRANSIENT VOLTAGE SURGE SUPPRESSOR, HIGH EXPOSURE
16450	GROUNDING
16471	CIRCUIT BREAKER PANELBOARDS, 240 VAC
16472	CIRCUIT BREAKER POWER DISTRIBUTION
16485	CONTACTORS
16510	LIGHTING FIXTURES
16621	ENGINE-GENERATOR SET, PACKAGED
16627	AUTOMATIC TRANSFER SWITCH

FAYETTEVILLE FIRE STATION No. 5
FAYETTEVILLE, ARKANSAS
WDD JOB # 06-007
"ATTACHMENT B"
Page 1 of 2

The drawings are as follows and are dated May 15, 2006, unless a different date is shown below:

SHEET NO.	TITLE	DATE
T1.2	INDEX AND GENERAL INFORMATION	
C0.0	COVER SHEET	
	PROPERTY & TOPOGRAPHIC SURVEY	
C1.1	DEMOLITION PLAN	
C1.2	SITE PLAN	
C1.3	GRADING AND EROSION PREVENTION PLAN	
C1.4	UTILITY PLAN	
L1.1	LANDSCAPE PLAN	
C5.0	DETAIL SHEET	
A1.1	FLOOR PLAN	
A1.2	REFLECTED CEILING PLAN	
A1.3	ROOF PLAN	
A2.1	ELEVATIONS	
A3.1	WALL SECTIONS	
A3.2	WALL SECTIONS	
A3.3	WALL SECTIONS PRECAST CONCRETE LINTELS	
A3.4	MISCELLANEOUS DETAILS	
A4.1	ENLARGED PLANS	
A4.2	INTERIOR ELEVATIONS MISC. DETAILS	
A4.3	DOOR AND WINDOW DETAILS	
A6.1	MILLWORK SECTIONS	
S1-0	GENERAL NOTES	
S2.0	FOUNDATION PLAN	
S2-1	FOUNDATION DETAILS	
S2.2	FOUNDATION DETAILS	
S2.3	FOUNDATION DETAILS	
S3-0	ROOF FRAMING PLAN	
S3.1	ROOF FRAMING DETAILS	
S3.2	ROOF FRAMING DETAILS	
S3.3	ROOF FRAMING DETAILS	
S3.4	ROOF TRUSS DIAGRAMS	
U1.1	UTILITY SITE PLAN	
P1.1	PLUMBING DRAIN PLAN	
P2.1	PLUMBING SUPPLY PLAN	

**FAYETTEVILLE FIRE STATION No. 5
FAYETTEVILLE, ARKANSAS**

WDD JOB # 06-007

"ATTACHMENT B"

Page 2 of 2

P3.1	PLUMBING ISOMETRIC AND DETAIL
P3.2	PLUMBING SCHEDULES
M1.1	MECHANICAL FLOOR PLAN AND SECTION
M2.1	MECHANICAL DETAILS
M2.2	MECHANICAL SCHEDULES, DETAILS & CONTROLS
E1.1	ELECTRICAL AND MECHANICAL POWER PLAN
E2.1	ELECTRICAL LIGHTING PLAN
E3.1	ELECTRICAL DETAILS AND NOTES
E3.2	ELECTRICAL DETAILS
E3.3	ELECTRICAL SCHEDULES
E3.4	ELECTRICAL LIGHT FIXTURE SCHEDULE AND DETAILS

ADDENDA

<u>NO.</u>	<u>DATE</u>	<u>PAGES</u>
No. 1	6/16/06	4 with attachments C0.0, C1.1, C1.2, C1.3, C1.4, L1.1, C5.0, ADD1.01, ADD 1.02 and Document 16720

Added at Agenda Session

6/27/06. NB - Last

7/6/06 Meeting



THE BARBER GROUP

June 27, 2006

Via Email: ssmith@ci.fayetteville.ar.us

Mrs. Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Appeal of LSD 06-1997

Dear Mrs. Smith,

Please accept this letter as my appeal of the Planning Commission's denial of LSD 06-1997 Divinity Hotel and Condos to the City Council in accordance with section 155.05 of the Unified Development Code.

Respectfully,

Brandon Barber
Chairman

cc: Jeremy Pate (jpate@ci.fayetteville.ar.us)

RESOLUTION NO. _____

**A RESOLUTION TO GRANT THE APPEAL OF THE PLANNING
COMMISSION'S DENIAL OF LSD 06-1997, DIVINITY HOTEL
AND CONDOS AND TO APPROVE THIS LARGE SCALE
DEVELOPMENT**

WHEREAS, on June 26, 2006, the Fayetteville Planning Commission voted 5-4 to deny LSD 06-1997, Divinity Hotel & Condos; and

WHEREAS, on June 27, 2006, the developer/owner of record of the property upon which LSD 06-1997, Divinity Hotel & Condos would be built has appealed this decision to deny the large scale development pursuant to §155.05 (A)(2) of the Unified Development Code.

**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 of the denial of LSD 06-1997, Divinity Hotel & Condos by the Planning Commission and approves LSD 06-1997, Divinity Hotel & Condos with all Conditions of Approval as stated within the Planning Department report specifically including:

- (a) All street and sidewalk improvements found in Condition 2;
- (b) Granting all waivers for driveway/alley width and curb radius found in Conditions 3 and 4;
- (c) Granting applicant's request to construct a span over the 20 foot wide public alley subject to the approval of the Fayetteville Fire Department and Fayetteville Solid Waste Division with a height clearance of at least 14.5 feet.

PASSED and APPROVED this 6th day of July, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

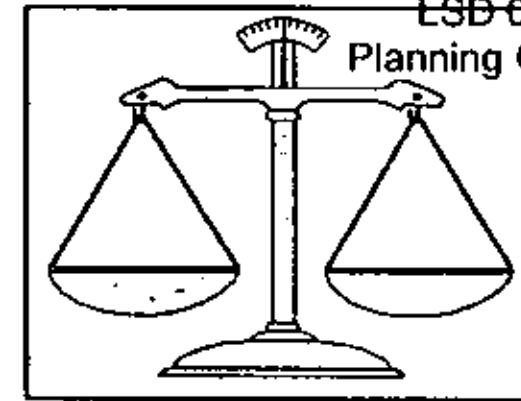
DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

D. 6
LSD 06-1997 Divinity Hotel
Planning Commission's Appeal
Page 3 of 248

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

FROM: **Kit Williams, City Attorney**

DATE: **June 27, 2006**

RE: **Appeal of LSD 06-1997 (Divinity Hotel & Condos)**

The rules for what can be considered to approve or deny a Large Scale Development (LSD) were established by the Fayetteville City Council when it passed the Unified Development Ordinance and recodified it years later as the Unified Development Code. These rules have not significantly changed since my memo to the City Council of June 17, 2002 attached.

§166.06 (c)(7)(d) (1) and (2) require conformance with the commercial design standards found in §166.14 (D)(2)(c) if the structure to be constructed is a commercial structure such as the proposed Divinity Hotel & Condos project. The major issue with this project has been whether the proposed Divinity Hotel & Condos provides "compatibility and transition between adjoining developments."

Jeremy Pate, as the Zoning and Development Administrator, is charged by City Council through U.D.C. §152.01 (D) for administering and interpreting Chapter 166 **Development**. Mr. Pate has opined that "compatibility and transition between adjoining developments" would include considerations of height even though this project was submitted and would be controlled by the previous C-3 zoning allowance of no height limitation. Mr. Pate made this identical determination during the consideration of the Underwood building which won approval of the Planning Commission a few months ago.

As I have consistently explained to the Planning Commission, commissioners (and now aldermen) must accept Mr. Pate's interpretation of the design standards and may **NOT** substitute personal interpretations. Thus, aldermen must **consider** the proposed height of the Divining Hotel & Condos as a factor when determining compatibility and transition. You may determine its height is or is not compatible with adjoining developments, but you should not ignore the height because Zoning District C-3 had no height limitation when this was proposed.

Alderman may consider the express purposes of the **Commercial Design and Development Standards** Section {§166.14 (A)} when discussing the compatibility and transition issues. However, the U.D.C. has no provision that provides that economic or tax revenue considerations can be a factor in determining whether a commercial development provides compatibility and transition between adjoining structures or otherwise complies with the stated factors for approval or denial of a LSD.

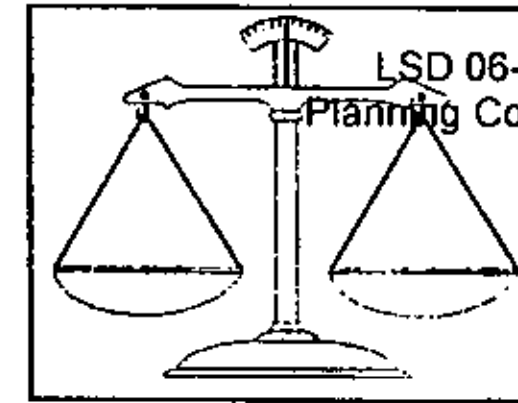
Although supporters of this project may be tempted to point to the obvious beneficial revenue and tax consequences if this project is built, such statements by the City Council could lead to legal challenges by opponents of the project. The Arkansas Supreme Court has consistently required City Councils to abide by and follow the development ordinances they have enacted until they are repealed or amended. City of Little Rock v. Pfeifer, 318 679, 887 S.W. 2d 296, 298 (1994). **Basing a decision on factors not found within the U.D.C. would be improper, possibly illegal, and likely would result in a lawsuit against this City and the project.**

The same holds true for opponents who should confine their remarks to factors found in the U.D.C., specifically the compatibility and transition arguments debated at the Planning Commission meeting.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

D. 6
LSD 06-1997 Divinity Hotel
Planning Commission's Appeal
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DEPARTMENTAL CORRESPONDENCE

TO: City Council

FROM: Kit Williams, City Attorney

DATE: June 17, 2002

RE: Appeal of Large Scale Development
(What may be considered by City Council)

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

Upon the appeal of any Large Scale Development, the City Council must follow the Unified Development Ordinance (specifically §166.05 C. 7. d.):

" d. The Subdivision Committee or Planning Commission may refuse to approve a large scale development for any of the following reasons:

(1). The development plan is not submitted in accordance with the requirements of this section.

(2). The proposed development would violate a City ordinance, a State statute, or a Federal statute.

(3). The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.

(4). The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a "dangerous" traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

(5). City water and sewer is not readily available to the property within the large scale development and the developer has made no provision for extending such service to the development.

(6). The developer refuses to comply with subsection 7.b. and c. pertaining to required on-site and off-site improvements."

Any objection or reason to deny a Large Scale Development must be included within those six stated reasons to be valid. If a proposed Large Scale Development meets the minimum standards of the Unified Development Ordinance, it must be approved even if every Alderman believes it is a terrible development unanimously opposed by the neighbors.

"When a subdivision ordinance specifies minimum standards to which a preliminary plat must conform, it is arbitrary as a matter of law to deny approval of a plat that meets those standards. Richardson v. City of Little Rock Planning Commission, 295 Ark. 189, 747 S.W. 2d 116, 117 (1988).

If a denial is "arbitrary as a matter of law", the City would be overturned in Court and probably ordered to pay costs and attorney's fees plus other possible damages.

The Richardson case is not the only Arkansas Supreme Court case holding that Aldermen and cities must follow the established ordinances. In Potocki v. City of Fort Smith, The Fort Smith Board of Directors rezoned land that had been part of a larger parcel in which the rezoning had been denied two months earlier. Their procedural ordinance required a one year wait from the earlier denial, but the Board decided to allow the rezoning anyway. Despite the fact that the Board of Directors has clear power to repeal or amend the procedural ordinance, the Arkansas Supreme Court found they were bound to follow it until it was formally changed.

"A city simply cannot pass procedural ordinances they expect to be followed by their residents and then conveniently ignore them themselves. A legislative body must substantially comply with its own procedural policies." Potocki v. City of Fort Smith, 279 Ark. 19, 648 S.W. 2d 462, 464 (1983).

Similarly, the Arkansas Supreme Court agreed with the Pulaski County Chancery Court that the Little Rock Board of Directors had acted arbitrarily, capriciously and unreasonably in a rezoning case.

"(N)or does a city have to create a zoning ordinance or a land use plan or adopt planned use districts or planned commercial districts, but once it has done so it must follow the ordinance until it is repealed or altered." City of Little Rock v. Pfeifer, 318 Ark. 679, 887 S.W. 2d 296, 298 (1994).

The Bottom Line

Apply the **FACTS** presented by City Staff, the Applicant or public to any of the **six factors** listed in the Unified Development Ordinance to justify your decision.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: June 27, 2006

Subject: Appeal of Planning Commission decision to deny LSD 06-1997 (Divinity)

RECOMMENDATION

The Planning Commission denied Large Scale Development 06-1997 for Divinity Hotel & Condos at its regular meeting of June 26, 2006, with a vote of 5-4-0. Pursuant to the Unified Development Code §155.05 Appeals, the property owner has appealed this decision to the City Council for consideration. Staff recommended approval of the Large Scale Development, subject to the conditions as noted in the attached staff report.

BACKGROUND

The Divinity Large Scale Development project is located on Dickson Street, in the block between Block Street and Church Street. It is comprised of 1.96 acres currently zoned C-3, Central Commercial. The project that is proposed consists of a mixed use building with 137 hotel and hotel/condo rooms, 30 condominiums, two restaurants and bars, banquet hall and meeting space and street level retail space, along with the required parking. The project was submitted on March 03, 2006, and has been revised on several occasions since that time, in response to public, staff and Planning Commission comments.

Staff recommended that the Planning Commission approve the project as considered on June 26, with conditions as stated. Staff recommended denial of the proposed project with previous submittals, finding that the initial proposal of 15 stories/225 feet in height and following submittal of 10 stories/181 feet in height were not substantially compliant with the stated Commercial Design Standards, specifically concerning compatibility and transition to adjoining properties. However, in the drawings presented for the Planning Commission at its June 26 meeting, substantial revisions from that which had been previously submitted were considered. The applicant chose to acquire an additional ½ acre to the south along Church Street; by doing so, this afforded the design team opportunities to reduce the overall building height and mass and to “step back” the structure from the street at intervals. All of these revisions are described in the attached staff report. For the following reasons, staff finds in favor of Commercial Design Standards: the reduction in height to primarily 8 stories and step-back of the façade away from the street as a means to achieve transition and compatibility in the Dickson Street area; utilization of compatible materials and design features such as brick, glass, concrete, balconies, overhangs, terraces outdoor dining and deck areas; and avoidance of “unpainted concrete precision block walls, square, ‘boxlike’ structures, metal siding

dominating the main façade, large blank, unarticulated wall surfaces and large out of scale signs with flashy colors." Staff finds the proposal is in compliance with the Unified Development Code, or with waivers thereof as recommended by staff, and thus recommends approval of this large scale development.

DISCUSSION

Several public meetings have been held to discuss this highly-publicized project, with a mixture of proponents and opponents given the opportunity to speak regarding the issues surrounding this project. A special Planning Commission meeting was held on May 01 for the Planning Commission to discuss this item separately from normal business items. Staff estimates approximately 11 hours have been spent in public meetings of the Planning Commission on this item alone, with the majority of that time being public comment both for and against the proposal. A significant amount of written comments are included in the attached staff report, again both for and against the proposed development. The Planning Commission discussed primarily the conditions of approval 1-5 regarding Commercial Design Standards (specifically compatibility and transition), street and sidewalk improvements, street waivers (curb radii and driveway width), construction of the parking garage over a public right-of-way (alley). The majority of the Planning Commission did not find in favor of the project with the conditions as staff recommended, thus the project was denied 5-4-0, with Commissioners Anthes, Myres, Clark, Bryant and Ostner voting against.

BUDGET IMPACT

None.



THE CITY OF FAYETTEVILLE, ARKANSAS

Planning Commission Meeting
June 26, 2006

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: ~~June 20, 2006~~ Updated June 27, 2006

LSD 06-1997: Large Scale Development (DIVINITY HOTEL & CONDOS, 484): Submitted by H2 ENGINEERING, INC. for property located at 101 W DICKSON, BETWEEN CHURCH AND BLOCK. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 1.96 acres. The request is for 8/9-story mixed use building with a hotel, two restaurants, retail space, parking garage and condominiums with a total of 90 residential dwelling units.

Property Owner: LYNNKOHN, LLC.; D., MC. & W., Inc., (LYNN WADE)
Developer: THE BARBER GROUP
Planner: ANDREW GARNER

Update: The Divinity Hotel Large Scale Development was submitted on March 03, 2006; the project then consisted of a 15-story, 225-foot mixed use project. Through the development review process, staff and the applicant have worked closely together on revising this initial submittal to come to a point at which staff feels the project meets Commercial Design Standards, which in staff's findings is the only critical component of the Unified Development Code with which this project has not been able to comply. The Planning Commission last considered a proposal at a special meeting of the Planning Commission on May 01, 2006. The applicants requested consideration of the project to be tabled at the regular meetings of May 22 and June 12. In response to comments received by the Planning Commission and Planning Staff at the May 01, 2006 Planning Commission meeting, the applicant has revised the plans and elevations for this Large Scale Development application.

The applicants recently submitted revised elevations for the June 26 Planning Commission meeting, indicating several changes, including the acquisition of additional land, but not substantially revising the west (Church Street) elevation. Staff indicated that we could not support the project as submitted, for we did not feel the transition and compatibility issue had been resolved. Staff made suggestions for modifications to the applicant, and in the past several days, revised elevations to reflect these suggestions have been made and submitted. The following describes the project as it is submitted for consideration, and that which staff is recommending approval for this large scale development.

Current Submittal:

The applicant has acquired an additional 0.54 acres adjacent to the southwest portion of the property. The additional acreage allows the two levels of parking to be removed from the main structure, and moves the parking to the newly acquired property. The parking structure now spans (14.5' height clearance) the newly dedicated 20' alley right-of-way that connects the existing alley in the middle of the block to Church Street.

Dickson Street Façade: This allows the majority of the Dickson Street hotel façade adjacent to the street to be reduced from four stories (65' in height) to two stories (45' in height), with the outdoor Razor Deck above. Above the 2-story podium, the hotel, condominiums and fitness center/spa step back significantly. At the far east end of the building, terminating St. Charles Avenue, the façade steps back 21 feet from the property line before four stories of hotel and a fitness center/spa top out the building. The majority of the building, however, steps back approximately 70 feet (the width of the Razor Deck) before going any higher. The current proposal indicates four stories of hotel and two stories of condominiums at the +/-70-foot setback; this change from previous submittals allows the removal of two stories of condominiums that were previously on the western side of the building (Church Street), a side that staff could not support because of its lack of transition at 181 feet directly on the street. The utilization of this space more in the center of the property provides transition from the street, as well as from the taller element (elevator overrun and parapets to screen the cooling towers) to the west. The majority of the structure, then, tops out at 112 feet, located off of the street for the most part (see north elevation dimensions at 112 feet).

Church Street Façade: As mentioned in the description of the changes to the Dickson Street façade, the acquisition of additional property required the addition of usable space in order to make the project work for the developer. This was originally proposed by adding two floors of condominiums (12 units) into the western portion of the building, facing onto Church Street. By doing this, the overall height of the building on this side did not change from previous submittals, and was still proposed at 159 feet to the top of the condominium parapet and 181 feet to the top of the elevator overrun, mechanical and cooling tower parapet screen. Staff could not support this façade, for it did not result in a substantially different facade, thus providing compatibility and transition. With the relocation and addition of condominium units to the center of the property, two floors/stories were removed, thus reducing the height of the entire western elevation significantly, including the cylindrical element at the corner of Dickson and Church. As submitted, the top floor restaurant is located at the 112-foot height. The top of the parapet for the restaurant extends to 135 feet, 24 feet lower than previous submittals. Additionally, this portion of the building has been set back from the property line as well, with the face of it 13 feet back. Previously, the façade of the building was proposed directly off of the street without any additional setback. While the majority of the building does not go higher than the 112-foot height, the roof top bar and restaurant, at approximately 8800 SF, is above this level. As the elevations exhibit, there is an additional height above this level, as well. Above the roof of the restaurant, a screening parapet wall is proposed, to screen mechanical equipment and cooling towers required for the mixed use project. An elevator overrun is also included; as an enclosed space, this is also counted in the building height, at the same 24-foot reduced height of approximately 157 feet. This highest elevation is setback 42 feet from Church Street, which is notated in the North elevation. The updated square footage and unit breakdown of the structure

as provided by the applicant is listed in *Table 1*.

Table 1
June 26, 2006 Planning Commission
Divinity Large Scale Development

Use	Type of Unit	Amount of Unit	Parking Ratio (1 space per ratio)	Parking w/out Reduction	Parking w/25% Hotel Accessory Use Reduction	Parking Required
Proposed New Structure Parking Requirements						
Hotel	# of guestrooms	77	1	77		77
Condo/Hotel	# of units (all 1-bedroom units)	60	1	60		60
Condo	1 bedroom unit	30	1	30		30
Hotel Restaurant (street level)	square feet	5,212	100	52	39	39
Hotel Bar (street level)	square feet	1,567	50	31	24	24
Restaurant (rooftop)	square feet	7,593	100	76		76
Bar (rooftop)	square feet	1,250	50	25		25
Hotel Lobby Bar/Lounge	square feet	1,862	50	37	28	28
Hotel Offices	square feet	2,076	300	7	5	5
Hotel spa/fitness	# of occupants	20	4	5	4	4
Hotel banquet hall/meeting rooms	# of occupants	697	4	174	131	131
Retail	square feet	14,116	250	56		56
Warehousing	square feet	8,362	2,000	4		4
Total Parking Required						559
Minimum Parking at 30% Under Required						392
Total Parking Provided						370
Parking Credit for Existing Structures Onsite						
Office	square feet	4592	300	15		15
Retail	square feet	1300	250	5		5
Single Family Residential	# of houses	3	2	6		6
Total Parking Credit						26
PARKING EXCESS						+4

Background: A large amount of background information, including extensive public comment, is attached with this report.

Request: The request is for Large Scale Development approval of the submitted site plans and elevations for the proposed commercial/residential development.

Recommendation: Finding that pursuant to Fayetteville Unified Development Code Section 166.14 (D)(2)(c), the structure does meet the design element guidelines for commercial structures to provide compatibility and transition between adjoining development and finding that the project is in compliance with the Unified Development Code or requested waivers thereof as recommended by staff in the following written conditions, staff recommends approval of LSD 06-1997 for Divinity Hotel & Condos. It is the charge of the Planning Commission to determine if the project meets with current ordinance requirements, including Commercial Design Standards. The following conditions of approval are recommended:

Conditions of Approval:

1. Planning Commission determination of Commercial Design Standards and compatibility with the surrounding commercial developments. *Staff finds that the revisions recently submitted for this project achieves an acceptable level of compatibility and transition to adjacent properties. While the C-3 zoning district now has height limitations that this project exceeds, this particular project must be reviewed on its own merits, subject to the ordinances in place at the time of the development submittal and review. Staff finds in favor of the proposed structure, finding that it is well-articulated, and transitions in appearance from surrounding properties, is compatible with development in the surrounding area, and meets the requirements of the Unified Development Code for commercial structures. Furthermore, staff finds the project has achieved acceptable levels of compatibility in utilizing architectural materials that are found in the surrounding area; reducing the overall height of the structure and diminishing the impact of the resulting height by stepping the building back on all facades; provided appropriate transitions to the pedestrian realm by proposing public facades on all sides, and where the parking garage is proposed, utilizing display walls, appropriate lighting and materials mid-block to incorporate the structure into the design of the overall project.*
2. Planning Commission determination of street improvements. *A professional evaluation of traffic movements and intersections in the vicinity was provided in writing (see attached). Based on the information provided and the project proposed, staff recommends the following street improvements:*
 - a. *The applicant shall install a left turn lane at the traffic signal at Dickson Street/St. Charles with adequate stacking distance to be approved by the City Engineer. All construction and relocation of utilities, signal devices, etc. shall be at the cost of the developer and coordinated with the City of Fayetteville.*
 - b. *The applicant shall install a minimum 10' wide sidewalk along all street frontages this project abuts, and construction details (color, brick tree grates, street lights, etc.) shall match the Downtown/Dickson Street Enhancement improvements.*
 - c. *The applicant shall construct new sidewalks along Block Avenue south to Spring Street, to match those on Dickson Street. The applicant shall coordinate with staff to facilitate these improvements within existing right-of-way, and to plan for street tree plantings in structural soil, as approved by the Urban Forester.*
 - d. *Street lights shall be installed by the developer (matching Dickson Street lights) along all project street frontages, as coordinated and approved by staff.*
3. Planning Commission determination of a waiver for driveway width. The southern driveway exit onto Block Avenue is 16.3' in width and the southern driveway entrance into the condo drop-off from Church Avenue is 16.3'. These are one-way driveways which require the aisle

width to be no more than 15'. *Staff recommends in favor of the requested waivers finding that the additional 1.2 and 1.3 feet requested would not cause adverse impacts to traffic movement or traffic safety.*

4. Planning Commission determination of a waiver for driveway curb radii. Driveway curb radii are required to be 25'. The applicant requests the following waivers of this requirement:
 - a. The northern condo drop-off driveway exit onto Church Avenue has a 19.5' curb radius on the northern curb.
 - b. The northern condo drop-off driveway exit onto Church Avenue has a 10' curb radius on the southern curb.
 - c. The southern condo drop-off driveway exit onto Church Avenue has a 10' curb radius on the northern curb.
 - d. The 20-foot alley ingress/egress onto Church Avenue has a 14' curb radius on the northern curb.
 - e. The northern driveway entrance on Block Avenue specifies a curb radius on the southern curb of 10'.
 - f. The southern driveway exit onto Block Avenue specifies a curb radius on the northern curb of 10'.
 - g. The driveway into the parking garage onto Church Avenue has 14' curb radius on both the northern and southern curbs.

Staff finds in favor of the requested curb radii, finding that the requested curb radius are suitable in this urban setting with limited space to provide the full 25' on all driveways and will not pose a traffic safety hazard.

5. Planning Commission recommendation to City Council for determination of a waiver to allow a structure to be constructed over public right-of-way. The proposed structure spans the new 20' alley right-of-way that would be dedicated with this project. *Staff recommends in favor of this waiver finding that allowing the building to span over the alley as proposed will continue to allow public right-of-way and necessary vehicular connection, as has been the case with the span of the alley in the Town Center project and the approval to span an alley for the East Square PZD proposal. As with these projects, staff recommends that this waiver is subject to the approval of the Fayetteville Fire Department and Fayetteville Solid Waste Division to ensure adequate access for emergency vehicles and solid waste service vehicles both through the overpass and south on the existing alley to access other properties currently served by the alley, and that the minimum height clearance be 14.5 feet or as otherwise determined by these divisions.*

6. The plans shall be revised as follows:

- a. The plat shall have two points on the boundary described in State Plane Coordinates, Arkansas North Zone, North American Datum 1983 (NAD 83).
- b. The plat shall have a point-of-beginning from a permanent well-defined reference point clearly labeled on the drawing.
- c. The plat shall be revised to be consistent with the information presented on the building elevations regarding the building number of condo and hotel units.
- d. Revise the parking table on the site plan to eliminate the 25% reduction for the retail use and roof top bar that are not considered to be accessory uses to the hotel.

- e. Revise the Tree Inventory and Mitigation Chart to show that all trees that meet the Significance requirement as set forth in our Landscape Manual are considered a High Priority for preservation. Staff finds at least 7 trees that meet that requirement. This canopy should be mitigated for using the high priority density factor, 290 square feet.
7. Right-of-way dedication in accordance with the Downtown Master Plan street standards as dimensioned on the submitted large scale development plat for Dickson Street (Main Street with minimum of 55' right-of-way), Church Avenue (ST-40 with a minimum of 40' of right-of-way), and Block Avenue (Main Street with minimum of 55' right-of-way) along the project frontages.
8. Bicycle racks shall be installed in accordance with city codes.
9. The plans indicate trees to be planted along the project frontage with approximately 30' between trees. These plantings shall match the Downtown/Dickson Street Enhancement Project (DDEP) improvements with approval of the species to be coordinated with the City's Urban Forester. Tree grates shall be provided for the protection of planted trees. A detailed landscape plan shall be submitted at the time of building permit.
10. The proposed street tree plantings will require structural soil. A note should be added to the landscape plan indicating as such. Structured soil is required to be installed prior to the sidewalks. Coordinate with the Urban Forester prior to construction.
11. Prior to building permit, a cost estimate for all required landscaping is to be submitted 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.
12. Mitigation will be required to replace 12,780 square feet of tree canopy removed. On-site mitigation is not an option for this project due to the site constraints. A check shall be deposited with the City before issuance of a building permit. The amount is dependent upon the canopy deemed significant, as outlined in Condition 6e of this report, and shall be approved by the Urban Forester. The money will be deposited into the City's Tree Escrow Account. These funds will be used to plant trees in the vicinity of this project.
13. Payment of Park fees for 90 multi-family units in the amount of \$61,200, or the actual number of units as approved and constructed, shall be paid prior to issuance of a building permit.

Standard Conditions:

14. 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).
15. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. Ground mounted equipment separate from the structure may be screened using large grasses or shrubs. A note shall be added to all construction documents stating as such.

16. All exterior lighting will be reviewed for compliance with the City's lighting ordinance at the time of building permit. A lighting plan and manufacturer's cut-sheets of the proposed fixtures shall be submitted by the applicant and approved by Planning Staff as part of the building permit review.
17. Trash enclosures shall be screened with access not visible from the street. The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
18. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Signs are not allowed to be placed in utility easements or right-of-way.
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 existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
21. Large scale development shall be valid for one calendar year.
22. 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.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions.
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions:

Planning Commission Action: ☐ Approval ☒ Denial ☐ Tabled

Motion: Graves (motion to approve)

Second: Trumbo

Vote: 4-5-0 (commissioners Anthes, Myres, Clark, Ostner, and Bryant voting 'No')

Meeting Date: June 26, 2006

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



PC Meeting of June 26, 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: June 21, 2006

ITEM # LSD 06-1997: Large Scale Development (Divinity Hotel & Condo)

Requirements Submitted:

T	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	1.956
square feet	82,203
Existing Tree Canopy	
acres	0.65
square feet	28,366
percent of site area	33.29%
Existing Tree Canopy Preserved	
acres	0
square feet	0
percent of total site area	0%
Percent Minimum Canopy Required	
	15%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site is 33.29% canopy covered. Very few trees on the site are significant and most are in fair to poor condition. The site currently**

has several buildings and houses with drives. There are two fence row of trees on the southern portion of the property. These trees are in poor shape, covered with vines while several are thorny locust species.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation will occur minimally on the site. Green space and canopy cover will be removed and replaced by a large impervious area.**

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 should not affect the adjacent property owners.**

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 poor.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **All trees will be removed for the construction of the structure.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **All trees will be removed.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **N/A**

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 12,780 square feet of canopy removed. The site will not allow for on-site mitigation.**

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 Condition of Approval.**

Conditions of Approval:

- 1. Please revise the Tree Inventory and Mitigation Chart to show that all trees that meet the Significance requirement as set forth in our Landscape Manual are considered a High Priority for preservation. Staff finds at least 7 trees that meet that requirement. This canopy should be mitigated for using the high priority density factor, 290 square feet.**
- 2. Mitigation will be required to replace 12,780 square feet of canopy removed. On-site mitigation is not an option for this project due to the site constraints. A check shall be deposited with the City before issuance of a building permit. The amount is dependent on condition 1 of this report. The money will be deposited into the Tree Escrow Account. These funds will be used to plant trees in the vicinity of this project.**

**LETTERS SUBMITTED BY APPLICANT FOR
JUNE 26, 2006 PLANNING COMMISSION
MEETING**



June 19, 2006

City of Fayetteville
Planning Commission
113 West Mountain Street
Fayetteville, AR 72701

RE: DIVINITY HOTEL LARGE SCALE DEVELOPMENT

Dear Commissioners:

We are pleased to submit the revised plans for the Divinity Hotel and Condominium Large Scale Development. When we adjourned the last Planning Commission meeting, you requested that if we were to resubmit that it include significant changes. We think you will agree that significant changes have been made. This current submittal includes an additional 0.54 acres of property located on Church Street to the south. This property was neither easy nor cheap to acquire. However, the additional acreage allowed the architects to remove the parking levels from the main structure and move them to the newly acquired property. This effectively lowered the Dickson Street façade an additional 2 stories. It also allowed for a reduction in the Block Street elevation. We feel these changes go a long way towards making this project more compatible with the surrounding area.

Please also accept this correspondence as an official request for a waiver from the requirements regarding structures spanning public right of way as it pertains to the Divinity Hotel large scale development. We are requesting permission to span the newly dedicated 20 alley right of way which connects the existing alley in the middle of the block to Church Street. We have provided 14.5 feet of vertical clearance over the length of the alley to accommodate emergency and solid waste vehicles. Vehicles traveling north have a 20' turning radius to the west, vehicles traveling east have a 10' turning radius to the south. Both the fire and solid waste departments have reviewed the request and plan and given verbal approval. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Hennelly', is written over a horizontal line.

Thomas A. Hennelly, P.E.
President
H2 Engineering, Inc.

Divinity Hotel / Condo

Fayetteville, Arkansas

June 26, 2006

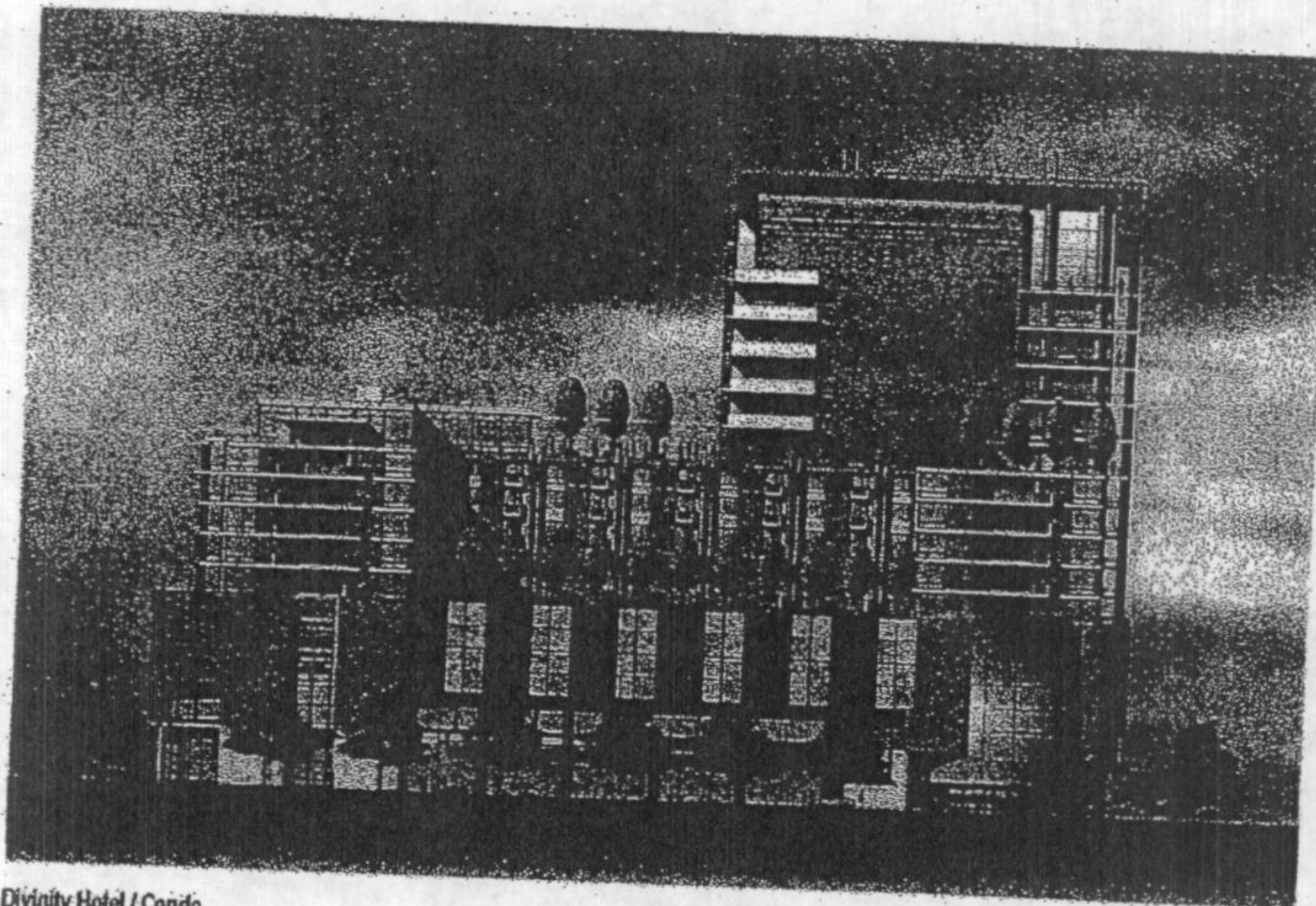
Narrative of Project *REVISIONS*:

In hopes of making "significant" changes to the project in order to improve the overall compatibility of the building to the context, the owner has purchased adjacent property south of the site. Significant revisions to the Divinity Project include the addition of a southern parking deck that provides a street-level opportunity for public interaction through retail showcase windows, evoking a stronger sense of connection to the variety of storefront shops along Dickson. This addition allows the parking decks of the former design to be pulled out from beneath the tower, resulting in a reduction in height of building mass along Dickson Street from 65'-0" down to 45'-0". In turn, the three public levels along Dickson relate better to the scale of the street and the immediate vicinity. Retail at street level encourages interaction from the sidewalk while the pre-function space at the second level offers a framed view up Dickson towards campus. The Razor Deck pool area overlooks the streetscape from the third level, providing a sensory connection to street, just 3 stories below. The height of the hotel mass along Dickson Street, now 83'-0", sits well below the 108'-0" of the previous design, and the setback from the property line, at 21'-0", serves to help further reduce the perceived height. Overall height of the building now totals 159'-6", and undulation of the building façade on all sides helps to integrate the building mass into the eclectic spirit of the area while providing a more human scale. The Condo tower, now set back 13'-0" from the property line along Church Avenue, steps away from the mass of the hotel below, reducing visual impact and improving the perception of scale at street level. Increased balcony depth within the hotel zone along Church Avenue serves to improve architectural articulation, furthering the conceptual link between the existing and the new.

**SITE ACCESS STUDY
FOR
DIVINITY LARGE SCALE DEVELOPMENT**

**CONDUCTED BY
CARTER BURGESS**

SITE ACCESS STUDY FOR DIVINITY



Divinity Hotel / Condo
Fayetteville, Arkansas

HKS® 2006

NORTH ELEVATION

03.22.06

March 2006

For



Carter=Burgess

INTRODUCTION AND BACKGROUND

The intent of this site access study is to determine the impacts of the Divinity Development on Dickson Street, Block Avenue, Church Street and Spring Street from the intersection of Stearns to east of the development. The study area is shown below in Figure 1.

The Divinity Development is a mixed use development of high-rise condos, multi-storied hotel buildings, high-quality restaurant, bar and specialty retail utilizing a multi-sue building layout with incorporated parking structures.

The surrounding adjacent area is developed with a U.S. Post Office to the north and a mix of retail stores and restaurants along Dickson Street and residential areas north and south of development. The University of Arkansas is west of the development at the end of Dickson Street. College Avenue is east of the development and is a major arterial in the state highway system carrying more than 38,000 Average Annual Daily Traffic (AADT).



Figure 1. Study Area

SITE ACCESS STUDY - DIVINITY

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**TABLE 1
SUMMARY OF 24 HOUR COUNT VOLUMES**

Location	Block	College Avenue		Church		Dickson St.		Spring St.	
Discript.	Bwtn Dickson/S pring	At Dickson St.		Btwn Dickson and Spring		Btwn Block and Church		Btwn Block and Church	
Time	SB	NB	SB	NB	SB	EB	WB	EB	WB
1500	169	706	1326	83	22	346	431	50	32
1600	153	848	1470	83	16	353	435	37	27
1700	137	782	1418	96	19	322	401	53	34
1800	97	787	1276	116	16	311	439	34	20
1900	63	463	936	55	12	192	294	29	18
2000	26	255	576	37	8	148	238	17	9
2100	27	177	450	20	11	109	199	14	4
2200	19	184	377	20	4	91	146	15	3
2300	10	114	269	19	7	46	104	8	2
2400	20	109	177	13	4	70	103	5	3
100	13	67	104	18	5	28	51	4	3
200	6	48	62	10	4	35	52	2	0
300	2	26	49	3	0	19	25	2	2
400	3	42	48	6	1	11	14	0	0
500	15	42	84	5	4	19	39	3	2
600	5	95	129	5	2	10	31	1	0
700	50	264	335	8	3	41	86	4	3
800	132	689	720	39	32	136	212	28	23
900	127	555	880	46	18	172	288	25	22
1000	164	559	938	69	19	197	354	25	23
1100	195	626	974	72	15	255	339	29	28
1200	183	826	1148	118	17	319	426	49	36
1300	191	820	1409	82	27	362	501	73	38
1400	180	751	1488	96	25	373	497	45	30
Hr Totals	1997	9835	16643	1119	291	3965	5705	552	362

Peak Hour for the Study

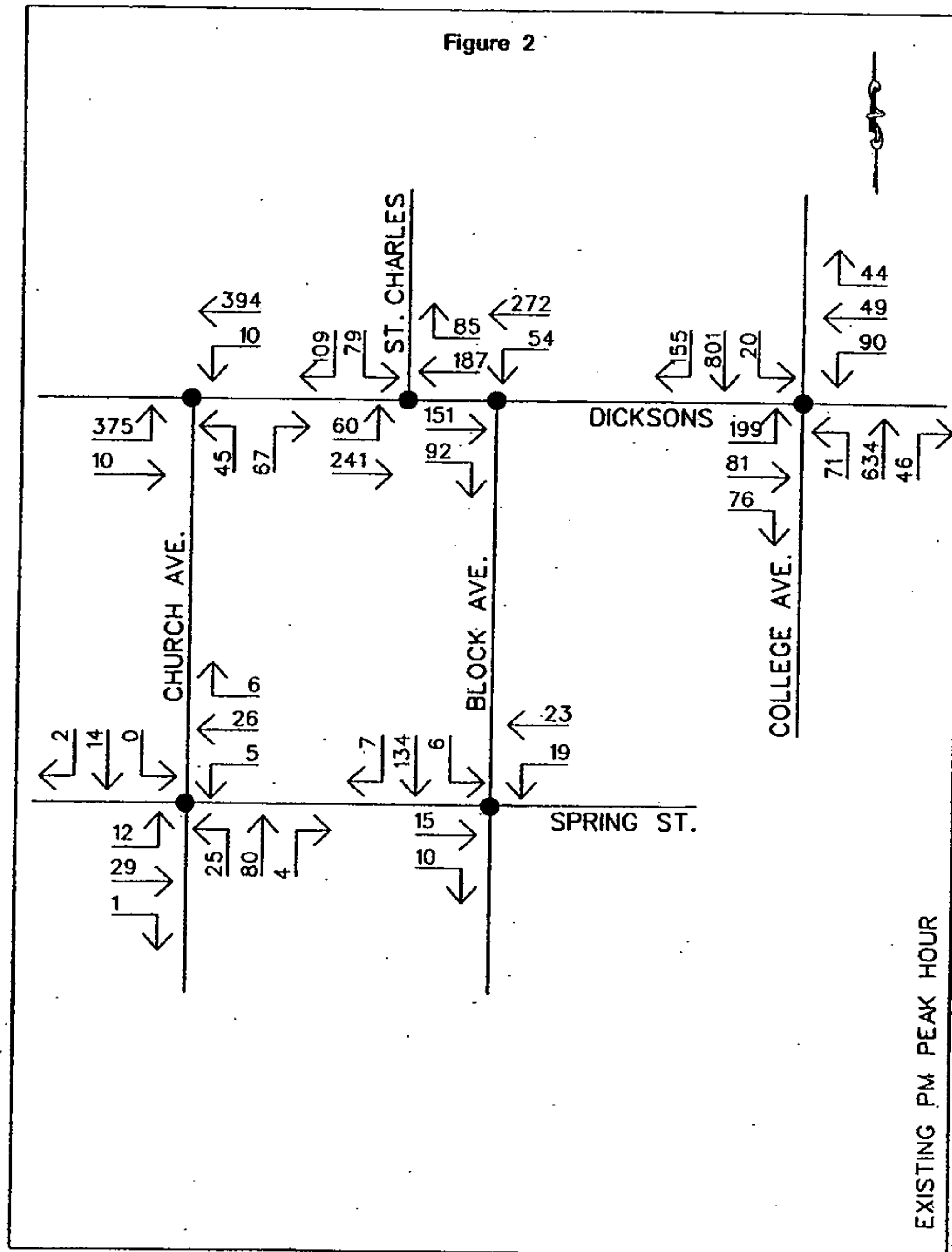
The peak hour of operation for the traffic developed by the project and the off-site development is the PM. This study will be looking at the Level of Service for the intersections of Dickson & Block, Dickson & Church, Dickson & College, Spring & Block and Spring & Church.

3/24/2006

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EXISTING PEAK HOUR TRAFFIC

24 Hour volume counts were taken along Dickson Street, Block Avenue, Spring Street, Church Avenue and College Avenue to help determine the peak hours of operation through the project area. Turning movement counts were performed at the intersections of Dickson & Block/St. Charles, Dickson & Church, Dickson & College, Spring & Block and Spring & Church. Table 1 shows a summary of the 24 hour volume counts and Figure 2 shows the existing peak hour turning movements for the project area. More detailed count data are available upon request.

Level of Service (LOS) is a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, and convenience as defined by the Highway Capacity Manual.

Stop Controlled. The LOS for a stop controlled intersection is determined by the computed or measured control delay and is defined for each minor movement. LOS is not defined for the intersection as a whole. LOS Criteria are defined in Table 2.

**TABLE 2
LEVEL OF SERVICE CRITERIA - UNSIGNALIZED**

LOS	Avg. Control Delay (s/veh)
A	0-10
B	>10-15
C	>15-25
D	>25-35
E	>35-50
F	>50

LEVEL OF SERVICE CRITERIA - SIGNALIZED

LOS	Avg. Control Delay (s/veh)
A	0-10
B	>10-20
C	>20-35
D	>35-55
E	>55-80
F	>80

Signal Controlled. The LOS for a signal controlled intersection is determined using delay by approach and for the intersection as a whole. LOS Criteria are defined in Table 2 from the Highway Capacity Manual.

SITE ACCESS STUDY - DIVINITY

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The intersections of Dickson & Block/St. Charles, Dickson & Church, Dickson & College, Spring & Block and Spring & Church were analyzed to determine the existing LOS for each intersection using the Highway Capacity Software. The results of the analysis are summarized in Table 3. A detailed report for each analysis is available upon request.

Due to the existing geometric layout of the Dickson & Block/St. Charles intersection the eastbound traffic is experiencing excessive delay.

TABLE 3
Existing Level of Service

PM

HCS	Dickson/College (Signalized)				Dickson/Block/St.Charles (Sig.)				Dickson/Church	
Movement	EB(L/T)	WB(L/T)	NB(L/T)	SB(L/T)	EB(L/T)	WBL	WBT	SB(L/T)	WBLT	NBLR
Lane LOS	D/E	E/E	A/B	A/B	B	B	B	A	A	C
Control Delay	56.5	63.3	12.9	15	16.5	10.9		6.5	8.2	15.6
Approach LOS	E	E	B	B	B	B		A		C
Intersection LOS	C				B					

HCS	Spring/Church				Spring/Block		
Movement	NBLTR	SBLTR	WBLTR	EBLTR	SBLT	WBLT	EBTR
Lane LOS	A	A	B	B	A	A	A
Control Delay	7.3	7.4	10.0+	10.2	7.2	9.9	9.6

OFF-SITE FUTURE DEVELOPMENT PEAK HOUR TRAFFIC

The study area is commercially developed along Dickson Street and residential development to the north and south. The University of Arkansas is to the west, and the Fayetteville Square is to the south. The areas adjacent to the study area are fully developed at this time.

SITE DEVELOPMENT PEAK HOUR TRAFFIC

The Divinity Development is a mixed use traffic generator with components of residential, offices, retail and lodging. Table 4 shows the land use types, size, 24 hour two way volume and PM peak hour entering and exiting volumes (including pass-by trips). Figure 3 shows the layout and distribution of the proposed development traffic in the study area. Traffic was assigned to the area based on the surrounding developments, available parking and the layout of the development building with respect to parking and use.

Internal Trip Capture

Due to the mixed use components of the development and some internal trip capture should occur. However, internal trip capture has not been applied to the development.

3/24/2006

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SITE ACCESS STUDY - DIVINITY

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TABLE 4
Summary of Trip Generation for Divinity

Land Use	Size	Units	24 Hr 2-Way Vol.	PM Pk Hour		Pass-By-Trips		Vol. Added to Adj. St.	
				Enter	Exit	Enter	Exit	Enter	Exit
Quality Restaurant	4.135	Th.Gr.Sq.Ft.	372	21	10	4	2	17	8
Drinking Place	2.755	Th.Gr.Sq.Ft.	0	21	11	4	2	17	9
Specialty Retail	11.917	T.G.L.A.	528	14	18	6	7	8	11
Hotel	142	Rooms	1160	44	40	0	0	44	40
High-Rise Condo	53	Dwellings	222	13	7	0	0	13	7
Totals			2282	113	86	14	11	99	75

Note: A zero indicates no data available.

Pass-By Trips

Pass-By Trips for the proposed traffic are shown in Table 4. Pass-By Trips are traffic diverted from the existing traffic stream to the traffic generator. Not all traffic generated by the development will be new trips added to the roadway system. The pass-by trips have been determined using ITE's Trip Generation Handbook. Pass-by trips have been utilized for the quality restaurant, bar and specialty retail portions of the development.

EXISTING PEAK HOUR TRAFFIC WITH SITE DEVELOPED

The combination of the existing traffic with the proposed traffic from the development is shown in Figure 4. The results of the traffic model from Synchro and the intersection analysis from HCS are summarized in Table 5. The delays at the intersections have increased with the addition of the development. The overall LOS for each signalized intersection has remained the same. The LOS for several minor movements at the studied intersections has enough increased vehicle delay to change the LOS.

TABLE 5
Existing + Proposed Level of Service

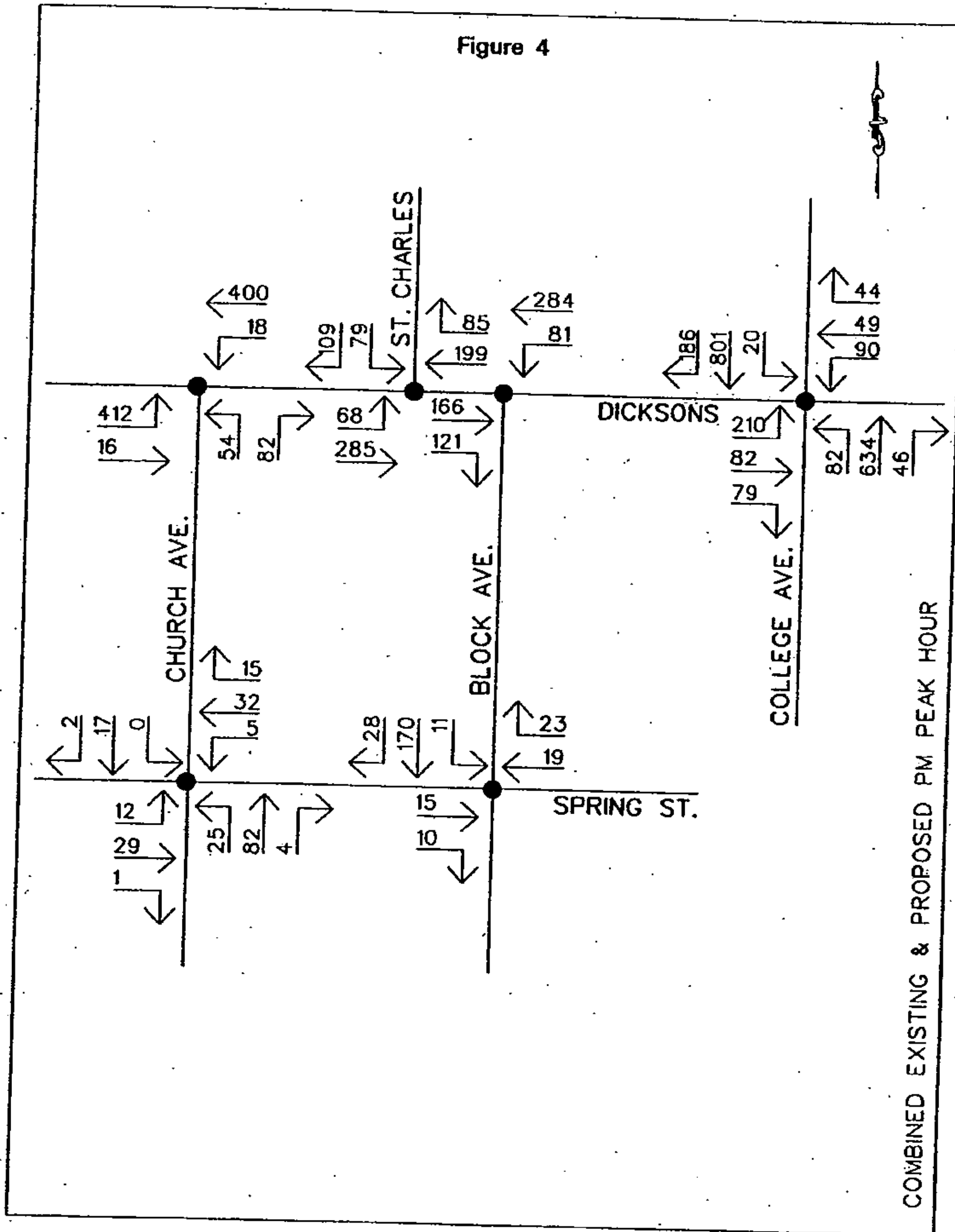
PM - Peak Hour

HCS	Dickson/College (Signalized)				Dickson/Block/SL Charles (Sig.)				Dickson/Church	
Movement	EB(L/T)	WB(L/T)	NB(L/T)	SB(L/T)	EB(L/T)	WBL	WBT	SB(L/T)	WBLT	NBLR
Lane LOS	D/E	E/E	B/B	A/B	B	A	B	A	A	C
Control Delay	55.9	63.3	13.5	15.9	17.7	10.8		7.3	8.3	18.1
Approach LOS	E	E	B	B	B	B		A		C
Intersection LOS	C				B					

HCS	Spring/Church				Spring/Block		
	NBLTR	SBLTR	WBLTR	EBLTR	SBLT	WBLT	EBTR
Lane LOS	A	A	A	B	A	B	A
Control Delay	7.3	7.4	10	10.3	7.2	10.3	9.9
Approach LOS			A	B		B	A

3/24/2006

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RECOMMENDATIONS

The Divinity Development traffic combined with the existing background traffic does not greatly increase delays within the study area. The eastbound left turn at Dickson St./St. Charles does not have a left turn bay. At this time the delay for the eastbound movement is minor (LOS B) for the existing traffic and is the same after adding the proposed traffic.

The intersection of Dickson/College is operating at an LOS C. The eastbound and westbound movements are at LOS E, however, the delays are minor due to the existing cycle lengths of the intersection. The LOS for the side street movements can be improved with new signal timings.

The one-way traffic southbound on Block Avenue will create more traffic for the residential area south of the development. The intersection of Spring/Block has the capacity to handle the small increase in traffic.

**PUBLIC COMMENT RECEIVED BY
PLANNING DIVISION ON JUNE 26, 2006**

TO: Fayetteville Planning Commission
FROM: Citizens of Fayetteville
DATE: June 26, 2006
RE: Submission of petitions against Divinity building proposal

CONTENTS:

A. Petition signatures

Physical signatures:	134
Electronic signatures:	45
TOTAL:	179

B. April 20, 2006 minutes of FCON including statement regarding building heights (last page)

C. Emails Recvd into Planning on 6/26/06.
11 Total Count.

RECEIVED
JUN 26 2006
PLANNING DIV.

We the undersigned oppose approval of the current Barber Group plan for the Divinity project on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

A building covering 1.96 acres is far out of scale with existing buildings and the building tradition in the downtown area of Fayetteville. The plan is not compatible with surrounding structures, and the style and size of the proposed building do not relate to nearby clapboard and brick buildings

In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

PRINT

Date	Print name	Signature	Address	City, State, Zip
	Ann H. Prassel	Ann H. Prassel	1613 Rockwood Tr.	Fayetteville, AR 72701
	JAN JABLONSKI	Jan Jablonski	941 WALKER ST	FAY, AR 72701
6/24	Jordan Williams	Jordan Williams	1111 Valley View Dr	Fayetteville AR 72701
6/24	Miller Williams	Miller Williams	1111 Valley View Dr	Fayetteville AR 72701
6/24	Carol Daggett	Carol Daggett	POB 451	Fay, AR 72702
6/24	B. Ilye Tucker	B. Ilye Tucker	247 N. Platinum Dr	Fayetteville 72701
4/24	Sue White	Sue White	2753 Hardy Ln	Fayetteville 72703
4/24	William A. Jones	William A. Jones	3618 E. St. Pleno Rd	Fayetteville, AR 72701
4/24	Terrie Barnes	Terrie Barnes	703 GRANT AVE	Pringia Grove AR 72701
4/24	Kristin Musgraw	Kristin Musgraw	1607 N. Walnut	Fayetteville 72701
3/24	J. C. HUNTER	J. C. Hunter	755 CEDARWOOD	FAYETTEVILLE 72701
	Vivian Kramert	Vivian Kramert	2407 Rosewood	Fay.
	Beth Wheat	Beth Wheat	1123 Overcrest	FAY.
	JOAN VARNER	Joan Varner	1123 Overcrest	FAY.
	Rob Lowe	Rob Lowe	732 W. Adams	Fayetteville, AR 72701
	Susan Young	Susan Young	1147 Turner	Fayetteville AR 72703
	MARTIN REDBURN	Martin Redburn	850 Skyline Dr.	Fayetteville AR 72701
	OW SHELTON	OW Shelton	850 Skyline Dr	"
	Mark O'Neil	Mark O'Neil	309 Chapelbrook St	Fayetteville, AR 72701
	Andrea Kechler	Andrea Kechler	938 Wood Ave.	Fay AR 72701
	Betsy Jackson	Betsy Jackson	235 Baxter	Fay 72701
	David Buckley	David Buckley	201 W. Maple	Fay 72701
	Nancy Buckley	Nancy Buckley	201 W. Maple St	Fayetteville 72701
	Martha Wadd	Martha Wadd	932 Hawthorn	Fayetteville 72701
	William McCalister	William McCalister	1803 N. Hartford	Fayetteville 72701
	CINDY McANANEY	Cindy McAnaney	3504 Belladune	72703
	Elizabeth Woods	Elizabeth Woods	419 N. Walnut Ave	Fayetteville, AR 72701
	Cara Corbin	Cara Corbin	319 11a	Fay AR 72701
	Roxy Willis	Roxy Willis	207 Ila	72701
	ELLEN COMPTON	Ellen Compton	P.O. Box 3385	Fay AR 72702
	MOHJA KAHF	Mohja Kahf	1656 Boston Place	Fay AR 72703
	Cristina Wooten	Cristina Wooten	4479 W. Cherokee Dr	Fay AR 72704
	WILLIAM L. SUMAN	William L. Suman	217 Oakhurst Way	Fay 72701

PRINT

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In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

Print name	Signature	Address	City, State, Zip
6/24 Patricia L. Corbin Wash. County resident	Patricia L. Corbin	25143 Lake Frances Rd	5, Ioam Spg 72761
JOHN KEARNEY	John Kearney	257 22 ST.	72701
Judy Payne Smith	Judy Payne Smith	3182 Oakfield	Fayetteville 72704
Krista Cass	Krista Cass	2841 N Susan Circle	Fay, AR 72703
6/24 Rebekah Schneider	Rebekah Schneider	700 W. Treadwell	Fay AR 72701
6/24 Cindy King	Cindy King	105 W SM St	Fay AR 72701
JASON GIL	Jason Gil	221 W. SOUTH	FAY, AR 72701
STEVE RUSTENBERG	Steve Rustenberg	2302 HOLLINGBROOK LN	FAY, AR 72703
4/2 Janet Holman	Janet Holman	493 Fritz Ct	Fay AR 72701
Fun Gibson	Fun Gibson	493 Fritz Ct	Fay AR 72701
Mike Hoover	Mike Hoover	409 N. West Ave	Fay AR 72701
Deborah Robinson	Deborah Robinson	415 Gregg St	Fay AR 72701
Stephen Parker	Stephen Parker	112 W. Sycamore	Fay, AR 72703
JOAN FALEZ	Joan Falez	1030 W Robin Apt 21	Fay, AR 72701
Deborah Pitts	Deborah Pitts	1815 Appleby Pl	Fayetteville AR 72701
Jeff Haglers	Jeff Haglers	1230 N. Eastwood	Fay. 72701
Ellen Hamaker	Ellen Hamaker	3142 E Grinstead	Fay Ark. 72704
4/24 E. M. O'Connell	E. M. O'Connell	104 Skyline	Fay - 72701
Lorraine Kelly	Lorraine Kelly	1753 Zion Rd	FAYVILLE
4/24 Alex Narak	Alex Narak	300 W Narak	Fayetteville 72701
Jennie Helen	Jennie Helen	360 McKnight Ave	West Fork 72774
Susan Shore	Susan Shore	232 W. Adams	Fayetteville AR 72701
Jennifer Freer	Jennifer Freer	705 W. Putnam, M2	Fayetteville, AR 72701
Jan Golden	Jan Golden	3416 N Rollston	FAY 72701
Vicki Bergman Lanier	Vicki Bergman Lanier	1885 Harold St	Fay 72703
Barbara Jaguish	Barbara Jaguish	319 Sutton St.	Fay - 01
Sally Edwards	Sally Edwards	1238 N. Vista Pl.	Fay - 72703
Grant Bain	Grant Bain	1238 N. Vista Pl.	Fay - 72703
Peter Etkes	Peter Etkes	1132 Eastwood Dr.	Fay 72701
Sham's Kitz	Sham's Kitz	408 S. East Ave.	Fay 72701
Deborah Sweett	Deborah Sweett	833 Rush Dr	Fay 72701
Frances Woods	Frances Woods	738 W. Union	Fay 72701
KEN STOK	KEN STOK	10124 124	WILSON, AR 72759

We the undersigned oppose approval of the current Barber Group plan for the Divinity project on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

A building covering 1.96 acres is far out of scale with existing buildings and the building tradition in the downtown area of Fayetteville. The plan is not compatible with surrounding structures, and the style and size of the proposed building do not relate to nearby clapboard and brick buildings

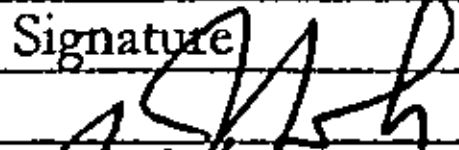
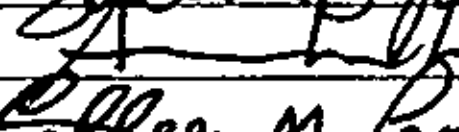
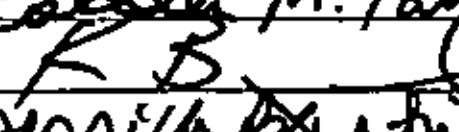
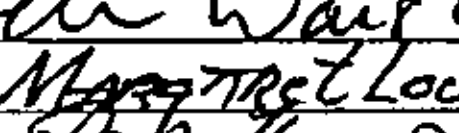
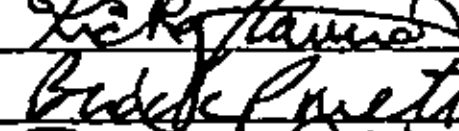
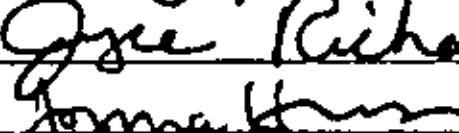
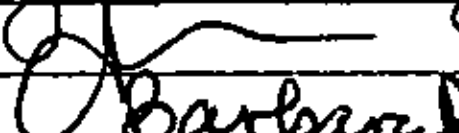
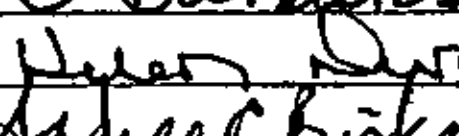
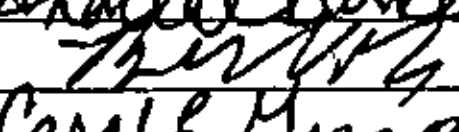
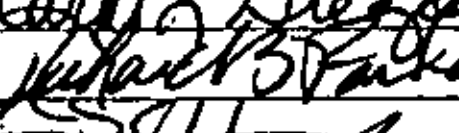
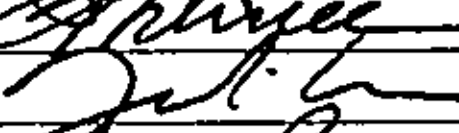
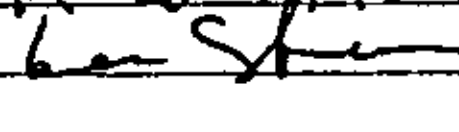
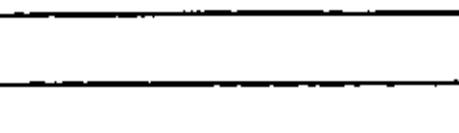
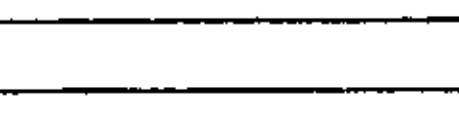
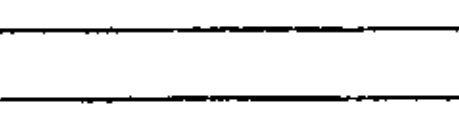
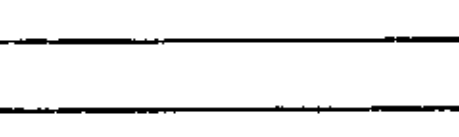
In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

Date
↓
PRINT↓

	Print name	Signature	Address	City, State, Zip
	DON PUCKETT	Don Puckett	2349 Tall Oaks	Fayetteville, AR
	Jurendra Singh	Jurendra Singh	2137 Loren Cir	Fayetteville, AR
6/24	LAURA Gold	Laura Gold	3802 E River Bluff Cove	Fayetteville, AR 72701
6/24	Valerie Wonsauer	Valerie Wonsauer	2149 Emma Ave	Fayetteville AR 72701
6/24	MORGAN GATTIS	Morgan Gattis	216 W. Spring St.	Fayetteville AR 72701
6/24	Ethel Emerson	Ethel Emerson	10 S Palmer	Fayetteville AR 72701
6/24	Dorette Williams	Dorette Williams	837 N. Olive	Fayetteville AR 72701
6/24	Sylvia Geddes	Sylvia Geddes	PO Box 3652	Fayetteville AR 72702
6/24	Jennifer Summers	Jennifer Summers	823 Morningside Dr.	Fayetteville AR 72701
	Stanley Lancaster	Stanley Lancaster	"	"
4/24	Diana Parker	Diana Parker	PO Box 379	Farmington AR 72730
6/24	MICHAEL EVANS	Michael P. Evans	3865 W Morning Mist	Fayetteville AR 72704
6/24	LISA HUFF	Lisa Huff	389 Dogwood Ln	Fayetteville AR 72701
6/24	Alice Kennedy	Alice J. Kennedy	232 Rebecca St.	Fayetteville AR 72701
	Michael Langford	Michael Langford	232 Rebecca St.	"
1/24	Faye Alier	Faye Alier	3030 N. Guley Rd	Fayetteville, AR 72704
1/24	Carol Gardner	Carol Gardner	215 E 13th	Fayetteville AR 72701
1/24	Brooks Mathias	Brooks Mathias	2208 Sutterbrae	Fay. 72703
5/24	Dorothy REIS	Dorothy REIS		
6/24	Isaac Jannagan	Isaac Jannagan	11220 S. Springs Rd	Fay AR 72701
6/24	Linda Moore	Linda Moore	217 Orla Way	Fay AR 72701
	Darlene Phipps	Darlene Phipps	2720 Country Club	Fay, AR
	Laura Han	Laura Han	1034 Catfish	Fay 72701
	SEAN SHEU	Sean C. Sheu	633 N Allen	Fay AR 72701
	Donna Stewart	Donna Stewart	990 ONE Mile Rd	Fay AR 72704
	Rula Johnson	Rula Johnson	2139 Loren Circle	Fay AR 72701
	Desiree Nelson	Desiree Nelson	4850 E Sandi Dr WC2192	Fayetteville, AR 72701
	MISSY SWINK	Missy Swink	PO BOX 10891	FAY 03
	Amy Shell	Amy Shell	633 Allen	Fay 01
	Shannon Mitchell	Shannon Mitchell	506 W. Hawthorn	Fay 72701
	R. L. Smith, Jr	R. L. Smith, Jr	3130 Bellvue #132	Fay 72204
2/4/06	John C. Lusth	John C. Lusth	503 N. Willow	FAY 72701
2/4/06	MARY McDowell	Mary McDowell	954 W. Eagle St.	Fay 72701
	Charlotte Ray	Charlotte Ray	112043 Apple Lane	Fay 72704
	CAIG NELSON	Caig Nelson	2841 N. Johnson Ave LN	FAY 72703
8/24/06	Sue Nesbitt	Sue Nesbitt	1718 Austin	Fay 72703

ATE **PRINT**↑

In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

Print name	Signature	Address	City, State, Zip
JANICE GROH		330 E FAIRWAY LN	FAYETTEVILLE 72701
Jack Groh		330 E Fairway Ln	Fayetteville 72701
SUSAN BYRAM		2435 Primrose Ln.	Fayetteville 72703
ANNE LANDRUM		219 W. South St	FAY 72701
Colleen M. Pancake		302 S. Gregg Ave	FAY. AR. 72701
Rebecca Bryant		1553 W. Deane	FAY. AR. 72703
JESSICA BARTNIK		1766 N. Gregg St	FAY, AR 72703
Charles Saunders		1375 N. Legett #8	FAY, AR 72703
Eleanor Waslow		687 Lindell Ave	FAY AR 72701
Margaret Lowrey		2931 N. Tox	FAY 72702
Ricky Harris		505 N Garland Ave	FAY 72703
BROCK PRUETT		1281 N. Garland Ave	FAY 72703
Joyce Richards		1673 Stephens	FAY 72703
JUNIA HUSSEY		517 Lythorn	FAY 72701
Jessica McClellan		327 W. North	FAY 72701
Barbara Dillon		126 ILA	FAY 72701
Helen Duran		4274 Trough Spring	FAY 72703
Andrea Birke		60 Greengrove	FAY 72701
Carol L. Gregory		906 N. Wagon	FAY 72701
RICHARD B. FARKAS		2748 S. Hunter	Fayetteville AR 72701
Lydia Ruth Stilwell		2748 S. Hunter Ln.	FAYETTEVILLE AR 72701
Jane Keen		358 N Arkansas Ave	72701
ANITA SCHNEE		1918 S. Garland	72701
JUSTIN KEEN		POB 3484	FAY 02
Corey Bahr		1918 S. Garland Ave	FAY 72701
HAROLD HALLER		2834 Con Kaylor Dr Apt #2	Fayetteville, AR
Ben Strawn		1159 W MAPLE	FAY
		327 W. North St	FAY 72701

[illegible]

[illegible]

Date:	Sat, 24 Jun 2006 16:34:59 +0000 [06/24/06 11:34AM CDT]
From:	FRANCES WOODS <franceswoodscpc@hotmail.com>
To:	ccramer@uark.edu
Subject:	FW: Fwd: Divinity Project

I would like to be on the petition objecting to the height of the Divinity project please. I have recently been to Savannah Georgia where they have been to intelligent about preserving the character of the city through regulating the heights and types of spaces required. Thank you for your work on this issue.

Frances Woods
738 Lighton Trail
Fayetteville Arkansas

>From: Harriet Jansma <hjansma@UARK.EDU>
>Reply-To: Mount Sequoyah South Neighborhood Association <SEQ-SOUTH@LISTSERV.UARK.EDU>
>To: SEQ-SOUTH@LISTSERV.UARK.EDU
>Subject: Fwd: Divinity Project
>Date: Sat, 24 Jun 2006 08:47:27 -0500
>
>fyi --
>
>>Date: Sat, 24 Jun 2006 12:01:21 +0000
>>From: Karon Reese <karonreese@hotmail.com>
>>Subject: Divinity Project
>>X-Originating-IP: [70.178.210.29]
>>X-Sender: karonreese@hotmail.com
>>To: ngallen@earthlink.net, tchadick@cwlaw.com, SusanC@wregional.com,
>> skopelman@sbcglobal.net, sel01@uark.edu, scaulk@alltel.net,
>> rnesson@jtlshop.jonesnet.org, ralston2@Cox-internet.com, r5ander@cox.net,
>> pmarinoni@sbcglobal.net, nanwilli@cox.net, mriley@uark.edu, mkinion@cox.net,
>> MHTCOMMU@aol.com, laura@sharparch.net, kpthompso@sbcglobal.net,
>> kallen8@hotmail.com, kadam@ncat.org, jobennett@sbcglobal.net,
>> jkvamme@uark.edu, Hollybryan@cox.net, Hogknight@aol.com, hjansma@uark.edu,
>> grammabeveryly@juno.com, dconner77@earthlink.net, CPANCAKE@ARKANSASUSA.COM,
>> CClark359@aol.com, aubreyshepherd@hotmail.com, aostner@rauschcoleman.com,
>> jim-n-claire@wismansweb.com, schaper@uark.edu, melissaterry@yahoo.com,
>> vsowder@beta-rubicon.com, jenkborg@aol.com, young-carol@sbcglobal.net,
>> cyrusyoung@hotmail.com, nclaesen@hotmail.com, cbass88437@aol.com,
>> jfaucette@coldwellbanker.com, dgneely@uark.edu, marsham@nwarktimes.com,
>> greggh@nwarktimes.com, stanjan@sbcglobal.net, katew@nwarktimes.com
>>Cc: jmcquade@ci.fayetteville.ar.us, ccramer@uark.edu
>>X-Originating-Email: [karonreese@hotmail.com]
>>X-PMX-Version: 5.1.2.240295, Antispam-Engine: 2.3.0.1,
>> Antispam-Data: 2006.6.24.44433
>>X-PerIMx-Spam: Gauge=IIIIIII, Probability=7%, Report='__CT 0,
>> __CT_TEXT_PLAIN 0, __HAS_MSGID 0, __MIME_TEXT_ONLY 0, __MIME_VERSION 0,
>> __RCVD_BY_HOTMAIL 0, __SANE_MSGID 0, __cbl.abuseat.org_TIMEOUT ,
>> __dnsbl.njabl.org_TIMEOUT , __query.bondedsender.org_TIMEOUT ,
>> __sbl.spamhaus.org_TIMEOUT '
>>X-OriginalArrivalTime: 24 Jun 2006 12:01:21.0545 (UTC)
>> FILETIME=[E8996790:01C69785]
>>
>>Dear Neighborhood Representatives,
>>
>>I have been asked to forward to you a petition drafted by a group of concerned citizens regarding the Divinity project--an agenda item for the June 26th Planning Commission meeting at 5:30 pm in Room 219 of the City Administration building. If possible, please forward to your neighborhood listserves. If you wish to be included in this petition, please copy the text below, along with your name and send to :

ccramer@uark.edu

>>

>>Thank you!

>>

>>Karon Reese

>>Washington Willow Neighborhood President

>>Fayetteville Council of Neighborhoods

>>

>>PETITION:

>>We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

>>

>>The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

>>

>>A building covering 1.96 acres is far too out of scale with existing buildings and the building tradition in the downtown area of Fayetteville. The plan is not compatible with surrounding structures, and the transition between them is too abrupt.

>>

>>In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

>>

Date:	Sat, 24 Jun 2006 07:08:03 -0700 [06/24/06 09:08AM CDT]
From:	Sami Long Kopelman <skopelman@sbcglobal.net>
To:	ccramer@uark.edu
Subject:	Divinity Project

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

Sami Long Kopelman
432 N. Assembly Drive
Fayetteville, AR 72701
251-7395

Date:	Sat, 24 Jun 2006 10:57:16 -0400 [06/24/06 09:57AM CDT]
From:	Jenkborg@aol.com
To:	ccramer@uark.edu
Subject:	divinity petition

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Susan Jenkins
Robert Ginsburg
40 E. Elm St., Fayetteville, Arkansas 72703
479-521-1255
jenkborg@aol.com

Date:	Sat, 24 Jun 2006 11:27:31 -0500 [06/24/06 11:27AM CDT]
From:	Cyrus Young <cyrusyoung@hotmail.com>
To:	ccramer@uark.edu
Subject:	RE: Divinity Project

CC: jmcquade@ci.fayetteville.ar.us, ccramer@uark.edu

Subject: Divinity Project

Date: Sat, 24 Jun 2006 12:01:21 +0000

>Dear Neighborhood Representatives,

>
 >I have been asked to forward to you a petition drafted by a group of
 >concerned citizens regarding the Divinity project—an agenda item
 >for the June 26th Planning Commission meeting at 5:30 pm in Room 219
 >of the City Administration building. If possible, please forward to
 >your neighborhood listserves. If you wish to be included in this
 >petition, please copy the text below, along with your name and send
 >to : ccramer@uark.edu

>
 >Thank you!

>
 >Karon Reese
 >Washington Willow Neighborhood President
 >Fayetteville Council of Neighborhoods

>
 >PETITION:
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 >for the Divinity project, on the following grounds:

>
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 > the recent 6-story limit passed by our City Council, which we
 >understand does not bind the Divinity project, but the spirit of
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>
 >A building covering 1.96 acres is far too out of scale with existing
 > buildings and the building tradition in the downtown area of
 >Fayetteville. The plan is not compatible with surrounding
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>
 >In taking advantage of the historic and attractive character of this
 > area, this building would irrevocably destroy it. The architecture
 >has no relation to this character, instead being a generic design
 >fit for an anonymous city.

>
 >Cyrus Young

210 N. Locust Fayetteville. AR

Date:	Sat, 24 Jun 2006 11:34:25 -0500 [06/24/06 11:34AM CDT]
From:	Aubrey Shepherd <aubreyshepherd@hotmail.com>
To:	ccramer@uark.edu
Subject:	No divinity, please

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Respectfully,
Aubrey James Shepherd
Lauren D. Hawkins
Deirdre S. Shepherd

June 24, 2006

Date:	Sat, 24 Jun 2006 12:32:22 -0500 [06/24/06 12:32PM CDT]
From:	"Dorothy G. Neely" <dgneely@uark.edu>
To:	ccramer@uark.edu
Subject:	Divinity Project Petition
Priority:	normal

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Dot Neely
Fayetteville District 1 Resident

Date:	Sat, 24 Jun 2006 13:15:35 -0500 [06/24/06 01:15PM CDT]
From:	Paradise <paradise@uark.edu>
To:	ccramer@uark.edu
Subject:	petition against Divinity Project (paradise)

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Thomas R. Paradise
510 Assembly Drive, Fayetteville AR 72701

Date:	Sat, 24 Jun 2006 13:16:41 -0500 [06/24/06 01:16PM CDT]
From:	Paradise <paradise@uark.edu>
To:	ccramer@uark.edu
Subject:	petition against Divinity Project (davidson)

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Fiona M. Davidson
510 Assembly Drive, Fayetteville Arkansas 72701

Date:	Sat, 24 Jun 2006 12:03:18 -0700 [06/24/06 02:03PM CDT]
From:	Melanie Dietzel <wildwoman1048@yahoo.com>
To:	ccramer@uark.edu
Subject:	Petition: Divinity Project

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Melanie Dietzel
1991 Greenview Dr.
Fayetteville, AR 72701

Yahoo! Messenger with Voice. PC-to-Phone calls for ridiculously low rates.

Date:	Sat, 24 Jun 2006 14:59:42 -0500 [06/24/06 02:59PM CDT]
From:	"Angela C. Maxwell" <angiemaxwell@mail.utexas.edu>
To:	ccramer@uark.edu
Subject:	Stop Divinity Project

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds: The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Sincerely,

Angie Maxwell

936 N. Lewis Ave

Fayetteville, AR 72701

Date:	Sat, 24 Jun 2006 17:39:10 -0500 [05:39PM CDT]
From:	hollybryan@cox.net
To:	"ccramer. uark.edu" <ccramer@uark.edu>
Subject:	Petition:

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit, passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Holly Chadick Bryan
107 North Olive
Fayetteville, AR

Victoria Bryan (daughter)
107 North Olive
Fayetteville, AR

Date:	Sat, 24 Jun 2006 18:53:31 -0500 [06:53PM CDT]
From:	gingeok <gingeok@cox.net>
To:	ccramer@uark.edu
Subject:	Divinity Project Petition

PETITION:

- > We the undersigned oppose approval of the current Barber Group plan for
- > the Divinity project, on the following grounds:
- >
- > The highest portion of the building (approximately 155 feet) exceeds the
- > recent 6-story limit passed by our City Council, which we understand does
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- > respected in any new building>
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- > A building covering 1.96 acres is far too out of scale with existing
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- > Fayetteville. The plan is not compatible with surrounding structures, and
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- > In taking advantage of the historic and attractive character of this
- > area, this building would irrevocably destroy it. The architecture has no
- > relation to this character, instead being a generic design fit for an
- > anonymous city.

George Kobe
Ginny Kobe
Kimmery Kobe

Date:	Sun, 25 Jun 2006 12:12:09 -0500 [12:12PM CDT]
From:	"A.L. Wilson" <hattiemcneil@hotmail.com>
To:	ccramer@uark.edu
Subject:	Divinity Petition

Add me to the list: Amy Wilson, 1833 E. Applebury Drive, Fayetteville, AR 72701; hattiemcneil@hotmail.com

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

A building covering 1.96 acres is far too out of scale with existing buildings and the building tradition in the downtown area of Fayetteville. The plan is not compatible with surrounding structures, and the transition between them is too abrupt.

In taking advantage of the historic and attractive character of this area, this building would irrevocably destroy it. The architecture has no relation to this character, instead being a generic design fit for an anonymous city.

Date:	Mon, 26 Jun 2006 10:29:22 -0500 [10:29AM CDT]
From:	Amy Undernehr <AUndernehr@waltonartscenter.org>
To:	ccramer@uark.edu
Subject:	Downtown Fayetteville & Divinity Project

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Tony & Amy Undernehr

Sang Valley Neighborhood

2133 W Berry, 72701

Amy Undernehr

Education Coordinator
Walton Arts Center
479.443.9216 x270

Date:	Mon, 26 Jun 2006 10:21:17 -0500 [10:21AM CDT]
From:	"John J. Watkins" <jwatkins@uark.edu>
To:	ccramer@uark.edu
Subject:	Divinity Project Petition
Priority:	normal

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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John J. Watkins
Joan S. Watkins
916 E. Dogwood Ln.
Fayetteville, AR 72701

Date:	Mon, 26 Jun 2006 09:33:40 -0500 [09:33AM CDT]
From:	"Crystal L. Phillips" <cphilli@uark.edu>
To:	ccramer@uark.edu
Subject:	Divinity Project Petition
Priority:	normal

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Signed,
Crystal Masterson
526 Shady Avenue
Fayetteville, AR 72701

Date:	Mon, 26 Jun 2006 09:15:09 -0500 [09:15AM CDT]
From:	Marian Kunetka <kunetka@uark.edu>
To:	ccramer@uark.edu
Subject:	Divinity project

PETITION:

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The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Marian Kunetka
706 South College Ave
Fayetteville, AR 72701
(479) 444-0174
<kunetka@uark.edu>

Marian Kunetka
Arkansas Archeological Survey
2475 N. Hatch Ave.
Fayetteville, AR 72704
(479) 575-6552
(479) 575-5453 - Fax
kunetka@uark.edu
<http://www.uark.edu/campus-resources/archinfo/forms.html>

Date:	Mon, 26 Jun 2006 09:04:55 -0500 [09:04AM CDT]
From:	Tim Caffrey <timcaffrey@prodigy.net>
To:	ccramer@uark.edu
Subject:	Divinity Project Petition

PETITION:

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Tim Caffrey
824 Rodgers
Fayetteville AR 72701

Date:	Mon, 26 Jun 2006 08:29:35 -0500 [08:29AM CDT]
From:	annw@arkansasmissouri-rr.com
To:	ccramer@uark.edu
Subject:	FW: SPAM-LOW: Fwd: Divinity Project

Ann Williams 479-313-3762, 1100 Joye Street, Springdale AR

If you wish to be included in this petition, please copy the text below, along with your name and send to : ccramer@uark.edu

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Talk is cheap. Use Yahoo! Messenger to make PC-to-Phone calls. Great rates starting at 1¢/min.

Date:	Mon, 26 Jun 2006 06:16:16 -0700 [08:16AM CDT]
From:	Katherine Guendling <kguendling@yahoo.com>
To:	ccramer@uark.edu
Subject:	Divinity Project

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Katherine Guendling
332 N. Fletcher Avenue
Fayetteville, AR 72701

Yahoo! Messenger with Voice. Make PC-to-Phone Calls to the US (and 30+ countries) for 2¢/min or less.

Date:	Mon, 26 Jun 2006 07:54:12 -0500 [07:54AM CDT]
From:	"Randall L. Guendling" <guendlin@uark.edu>
To:	ccramer@uark.edu
Subject:	petition

Karon Reese
Washington Willow Neighborhood President
Fayetteville Council of Neighborhoods

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Randall L. Guendling
332 N. Fletcher Ave.
Fayetteville

Date:	Mon, 26 Jun 2006 14:15:26 -0500 [02:15PM CDT]
From:	Nan Yarnelle <nyarnelle@gmail.com>
To:	ccramer@uark.edu
Subject:	[No Subject]

Karon Reese
Washington Willow Neighborhood President
Fayetteville Council of Neighborhoods

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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I vote against this structure. Nan Yarnelle, 902 Fritz, Fayetteville AR 72701

Date:	Mon, 26 Jun 2006 11:54:29 -0500 [11:54AM CDT]
From:	"MURIE, KIMBERLY" <KMURIE@bentonville.k12.ar.us>
To:	ccramer@uark.edu
Subject:	[No Subject]

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

The highest portion of the building (approximately 155 feet) exceeds the recent 6-story limit passed by our City Council, which we understand does not bind the Divinity project, but the spirit of which we feel should be respected in any new building.

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Kimberly Murie

James Murie

Bob Jones

Karen Jones

Date:	Mon, 26 Jun 2006 13:39:19 -0500 [01:39PM CDT]
From:	Nancy Allen <ngallen@earthlink.net>
To:	ccramer@uark.edu
Subject:	petition

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Nate and Nancy Allen
P.O. Box 3105
Fayetteville, AR
72702

Date:	Mon, 26 Jun 2006 13:10:11 -0500 [01:10PM CDT]
From:	Robert Riggs <rdriggs@uark.edu>
To:	ccramer@uark.edu
Subject:	Petition

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Robert D. Riggs

Date:	Mon, 26 Jun 2006 18:01:17 +0000 [01:01PM CDT]
From:	Karon Reese <karonreese@hotmail.com>
To:	ccramer@uark.edu
Subject:	FW: I signed the petition

 1 unnamed [text/plain] 0.23 KB

I'll keep forwarding today as I receive them. Thanks for all of your hard work!

Karon

>From: "Megan Chapman" <megancha@gmail.com>
>To: karonreese@hotmail.com.
>Subject: I signed the petition
>Date: Sat, 24 Jun 2006 16:29:21 -0500
>

 2 text2.txt [text/plain] 0.86 KB

The Petition:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Megan Chapman

Date:	Mon, 26 Jun 2006 18:00:42 +0000 [01:00PM CDT]
From:	Karon Reese <karonreese@hotmail.com>
To:	ccramer@uark.edu
Subject:	FW: Petition

And another....

>From: Lisa Olinger <lsatolinger@sbcglobal.net>

>To: Karon Reese <karonreese@hotmail.com>

>Subject: Petition

>Date: Sat, 24 Jun 2006 17:53:15 -0700 (PDT)

>

> The Petition:

> We the undersigned oppose approval of the current Barber Group plan for the
> Divinity project, on the following grounds:

>

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> this building would irrevocably destroy it. The architecture has no
> relation to this character, instead being a generic design fit for an
> anonymous city.

>

>Lisa Olinger

Date:	Mon, 26 Jun 2006 18:00:14 +0000 [01:00PM CDT]
From:	Karon Reese <karonreese@hotmail.com>
To:	ccramer@uark.edu
Subject:	FW: Re: [washingtonwillowneighborhood] Divinity Project

Another petition, Connie!

Karon

>From: "Diane Carroll" <dicarr@flash.net>
>To: "Karon Reese" <karonreese@hotmail.com>
>Subject: Re: [washingtonwillowneighborhood] Divinity Project
>Date: Sun, 25 Jun 2006 13:04:35 -0500
>
>The Petition:
>We the undersigned oppose approval of the current Barber Group plan for the
>Divinity project, on the following grounds:
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>The highest portion of the building (approximately 155 feet) exceeds the
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>this building would irrevocably destroy it. The architecture has no
>relation to this character, instead being a generic design fit for an
>anonymous city.
>
>Diane and Scott Carroll
>329 N. Washington
>
>
>
>
>>
>

Date:	Mon, 26 Jun 2006 17:59:44 +0000 [12:59PM CDT]
From:	Karon Reese <karonreese@hotmail.com>
To:	ccramer@uark.edu
Subject:	FW: Divinity Petition

Hey Connie,
I'm forwarding the petitions received through our neighborhood listserve. Thanks for everything!

Karon

>From: "O'Leary-Kelly, Scott" <SOLearyKelly@walton.uark.edu>
>To: <karonreese@hotmail.com>
>Subject: Divinity Petition
>Date: Mon, 26 Jun 2006 10:06:27 -0500

>
>The Petition:

>
>We the undersigned oppose approval of the current Barber Group plan for
>the Divinity project, on the following grounds:

>
>
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>the recent 6-story limit passed by our City Council, which we
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>
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>no relation to this character, instead being a generic design fit for an
>anonymous city.

>
>
>
>Scott O'Leary-Kelly

>
>
>
>
>
>Karon,

>
>Thanks for organizing this! -Scott

Date:	Mon, 26 Jun 2006 13:32:43 -0400 [12:32PM CDT]
From:	Hakunatamama@aol.com
To:	ccramer@uark.edu
Subject:	petition

Sorry!

>
> PETITION:
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> Divinity project, on the following grounds:
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> this building would irrevocably destroy it. The architecture has no
> relation to this character, instead being a generic design fit for an
> anonymous city.
>
>
> Beth Presley
4301 Ozark Trail
Fayetteville, AR 72701
>

Date:	Mon, 26 Jun 2006 12:28:55 -0500 [12:28PM CDT]
From:	Charles Heathco <cheathco@cox.net>
To:	ccramer@uark.edu
Subject:	petition

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Charles Heathco, Farmington Ar.

Date:	Mon, 26 Jun 2006 11:11:13 -0500 [11:11AM CDT]
From:	Peggy <peggytreiber@cox.net>
To:	ccramer@uark.edu
Subject:	objection

While I appreciate the changes The Barber Group has made, I still feel as many others do, who have signed the following petition, and I would ask the Fayetteville Planning Commission to vote against this project.

PETITION:

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Peggy Treiber

Joy-Us Productions

www.joy-us.us

*"Smack in the middle of this moment
is a present waiting to be opened. Enjoy!"*

Date:	Mon, 26 Jun 2006 12:28:58 -0700 [02:28PM CDT]
From:	Jim Bemis <nputjim@sbcglobal.net>
To:	ccramer@uark.edu
Subject:	Signed petition

Connie-

Please add my name to the petition, which I may have already signed on the Square.

I'd suggest they move their hotel out West and give it (and us) some breathing room on Dickson and downtown. It's a nice design for the right spot – maybe on the several hundred acres that they own on the near the Boys and Girls Club. They could start a whole new town and entertainment district on the other side of the I-540 "river". We need something besides motels out here.

Jim Bemis
nputjim@sbcglobal.net
790 2518

PETITION:

We the undersigned oppose approval of the current Barber Group plan for the Divinity project, on the following grounds:

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Forwarded Message [Download File | Save to Yahoo! Briefcase]

**Minutes from April 20, 2006
Fayetteville Council of Neighborhoods
Room 111 Council Building**

I. Botanical Gardens

- a. Kathy Bass – President of the Board
 - i. Building almost complete, two gardens complete
 - ii. Trying to raise \$30 million.
 - iii. Design contest to determine garden designs
 - iv. 9 theme gardens – century, nature, shade, four seasons, Japanese, rock and water, vegetable, children
 - v. May 11- "Greening of the Garden"
 - vi. Goals – outdoor classroom, education greenhouse, parties, weddings, jazz fest, concerts. Giving away a wedding
 - vii. October 7 – Grand Opening ceremony
 - viii. June 25 – Daylily collection sale
 - ix. July – Program on ivorybill
 - x. 85 total acres
 - xi. Environmental designs – Bioswales, cystemns many environmental engineering
 - xii. Free on Saturday mornings and admission \$7 the other times.
 - xiii. Funding from grants.
 - xiv. Working with Master Gardners
 - xv. www.bqso.org

II. America in Bloom Cindi Cope

- a. Discussed components of America in Bloom judges.
 - i. Environmental education
 - ii. Heritage Preservation
 - iii. Community involvement
 - iv. Urban Forestry
 - v. Landscaped areas
- b. Planted daffodils with kids
- c. Copecindi@aol.com

III. Fire Chief – Troy Johnson introduced

IV. Beauty Mark

- a. Discussed voting and nomination procedures
 - i. There will be a table at the Farmer's Market and voting can take place on line at fayettevillebeautymark@yahoo.com

V. Building Heights

- a. There are no building heights right now. Discussed proposed heights within proposed ordinance.
- b. Divinity Building proposed at 15 stories and then changed to 10 stories.
- c. Underwood Building approved at 9 stories.
- d. Divinity Building to be brought before planning commission at 10 stories on Monday April 24. But meeting tabled because designers aren't ready.
- e. Compatibility an issue and can be used to deny building design.
- f. Michael – view of trees makes Fayetteville beautiful and the Divinity building would block the view.

- g. Mark – People like the charm of the city and the Divinity building would take away from the charm.
- h. Sarah – The Divinity Building proposal is not compatible with the suggestions from Dover-Kohl, the \$250,000 engineers the city hired to plan the for the future.
- i. Jo Ann – Used a scale drawing to show difference in height between the existing buildings and the proposed Divinity Building.
- j. Bob – If this building passes, it will open the “flood gates” for other tall buildings.
- k. Cyrus – Why aren’t the city representatives following the wishes of the people on downtown development, etc.
- l. Nancy A – Even 6 stories may be two high.
- m. Discussion continued -
 - i. There are places where tall buildings are more suitable
 - ii. Hillcrest Towers is already very tall.
 - iii. Marriot proposed as 17 stories.
 - iv. One person wondered if the CityPlan 2025 and the FCON meeting were just lip service.
 - v. 251 people on one petition and 108 on another via email and hand-written responses – against the proposed Divinity building
- n. Nancy Allen – Asked the council if FCON wanted to support the limiting of height to protect Old Main and other views in Fayetteville. The council supported the motion, noting that they were not able to represent all of the neighborhood residents. Katherine Adam did not vote.
- o. Monday night – City Council meeting 5:30 April 24
- p. Barber Group has already invested \$5 million into the property.

Minutes of FCON Meeting, April 20, 2006 (continued)
Final section

The Secretary left about 6:30 p.m., and the V-P finished the minutes-taking.

Cindi Cope was presenting for American In Bloom. The AIB judges will be here June 5. The AIB committee is putting together a book, and Fayetteville will be judged on the book and the tour. She commended efforts by FCON such as the Beauty Mark Award

Beauty Mark Award (fayettevillebeautymark.com)

Katherine Adam volunteered to chair a committee to recruit help to man a Beauty Mark nominations booth at the Saturday farmers’ market, similar to last year’s, during the rest of April. Nominations can also be made through the Web site. Linda Ralston, Mark Kinion (Wilson Park), and JoAnn Kvamme volunteered to serve on the committee to collect nominations, principally at the FM. Award Selection Committee will be the same as last year, chaired by Bob Caulk (Mt. Sequoyah South). The first award for 2006 is expected to be made something in May.

Building Heights in Fayetteville

Nancy Allen provided background for the discussion. Core limit proposed is 12 stories; Dickson Street, 6 stories (continent upon passage of the Downtown Master Plan). Underwood Lofts was recently approved for 7 stories in front, 9 in back. The Divinity

Building is coming back to Monday's Planning Committee meeting at 10 stories, down from 17.

FCON passed the following proclamation,

We of the Fayetteville Council of Neighborhoods express deep concern about building heights that compromise the integrity of downtown and Dickson Street, in particular.

Katherine Adam abstained from voting, citing conflict of interest, and specifically requested that this abstention be duly recorded in the minutes of this meeting. The motion was passed unanimously by those present and voting, with the one abstention.

From: "Sue Condren" <scondren@sbcglobal.net>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassetlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, <Ddonmarr@swbell.net>, <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <ljordan7@hotmail.com>
Date: Mon, Jun 26, 2006 10:27 AM
Subject: Divinity Yes and No

Hello,

I have mixed feelings about Divinity Project. I like the design, and the developers have been very cooperative. However, I do not like the fact that it seems incompatible with the building height of its neighbors. I would be interested in seeing a simple elevation drawing of the building in relation to the buildings for two blocks on either side of it. Seeing it as part of a whole, in relation to the rest of the surrounding structures, might prove that it doesn't fit the area, and I think that would be a valid reason for further reducing its height.

Thank you,

Sue Condren

PS: Thanks so much for all your hard work to make Fayetteville a great place to live!

From: <robertginnaven@aol.com>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>
Date: Mon, Jun 26, 2006 11:13 AM
Subject: For Divinity

Dear Planning Commissioners,

I respectfully encourage you to vote for the Divinity project. Thank you for your consideration and for your service.

Sincerely,

Robert Ginnaven
123 North College Avenue
Fayetteville, AR 72701
(479) 422-0569
(479) 973-9255 - fax

Check out AOL.com today. Breaking news, video search, pictures, email and IM. All on demand. Always Free.

Planning - Divinity project

From: Kristin Musgnug <kmusgnug@uark.edu>
To: "planning@ci.fayetteville.ar.us" <planning@ci.fayetteville.ar.us>
Date: 6/26/2006 11:37 AM
Subject: Divinity project

(I apologize for the last-minute nature of this message - would you please see that members of the planning commission receive copies of this before tonight's meeting? thanks)

Dear Members of the Planning Commission,

I am vehemently opposed to the planned Divinity building on Dickson Street. I am not opposed to increasing density in the central core of the city, and I think a hotel is a great idea, just not one of this size. I am disturbed by :

1. the massive scale of the building
2. the unprecedented (for Dickson street) height
3. the stylistic vocabulary of the building

The sheer size of the building will overwhelm the rest of the buildings on the street. Dickson Street is a beloved and important part of our community, and a good deal of its charm and walkability derives from the small scale and varied textures at street level. It appears that no attempt was made for the Divinity building to be compatible with the rest of the street in this regard. The rear façade, in particular, is a monstrously high blank wall which will be an eyesore to its neighbors.

I understand that our city is growing, and I don't think that Dickson Street should forever remain a street of one story structures, but projects can be built that will enhance the delightful nature of Dickson street rather than destroy it. The new Underwood building, for example, was designed to be sympathetic with the historic architecture and scale of Dickson street. Instead of the developer trying to work with the community, he lectures us that if we know what is good for us we will accept this building.

While I understand that the height limits recently enacted by the city do not apply to the Divinity building, I think the height of the building is also incompatible with the nature of Dickson Street, and would negatively affect the street. In addition to changing the character of the street, high rises also diminish sunlight on the street, as well as increasing the wind velocity at street level. I fear this would damage the intimate, pedestrian-friendly nature of Dickson Street. I also question whether Dickson Street is really wide enough to handle a building of this height. Many cities at the turn of the last century enacted laws restricting building height to the width of the streets. I do not know how wide Dickson street is, but it is certainly not 155 feet wide. Consider the block of Center Street just east of the square. It is shaded by the Bank of America

building's five or six stories on the south and by Continuing Education on the north, and feels like a canyon. Center street here is a little narrower than Dickson, but not by a lot, and the Bank of America building is considerably shorter than the proposed Divinity building. I would hate to see Dickson Street become a glass and concrete canyon, and I strongly encourage you to vote against it.

Respectfully,
Kristin Musnug
607 North Walnut
Fayetteville

From: "LA NORMAN" <louanorman@hotmail.com>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Jun 26, 2006 11:43 AM
Subject: To each Planning Commission Board member

Please send a copy to each Planning Commission member (since I was unable to find email addresses for each of them at the website).

To the Planning Commission Board:

I urge you NOT to accept the Barber Group proposal to develop a high rise office bldg. that would compromise the integrity and character of Dickson Street with an architectural structure grossly incompatible with the surrounding buildings. I urge you to protect one of the premiere areas of Fayetteville (Dickson Street and U of Arkansas) which attracts tourists because of its uniqueness and its human-scale appeal and has the potential of becoming enhanced in aesthetically pleasing ways for both visitors, developers, and those like myself who live in the neighborhood.

I am not against development of Dickson Street, but I am saddened that developers like the Barber Group have apparently no interest in the integrity and unique character of a town that has ranked high on the best places to live list precisely for the reasons I have mentioned above. Unfortunately, Fayetteville will have to suffer the existence of a high rise that is going up behind Common Grounds. Let's stop this trend and promote the best in small city development and model our planning on what has been successful nationally for other comparable cities.

And...I urge the Planning Commission to tap into the resources here at home. The University of Arkansas has a superb architectural school...is anyone associated with the school on your board? Has a committee of citizens and architectural experts (not developers) been convened and consulted to help the commission make decisions?

Thank you,

Dr. Lou Ann Norman
233 West Louise Street
Fayetteville, AR 72701

From: "Joann C. Kvamme" <jkvamme@uark.edu>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, <Ddonmarr@swbell.net>, <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <ljordan7@hotmail.com>
Date: Mon, Jun 26, 2006 11:46 AM
Subject: Please Vote AGAINST the Divintiy Project!

Dear Planning Commissioners,

I would respectfully request that you vote against the Divinity Project.

- 1) The Barber Group constantly says they are making concessions, this is true to a point. However, it is important to remember that the Master Plan was well along before they purchased the property and the height restrictions were very clearly going to be an issue. Instead of working with what the Master Plan was demonstrating to be the desires of the community they chose to move forward as quickly as possible so they would not be bound by the document. To me making concessions is about taking the general guidelines that were becoming apparent in the draft Master Plan and creating a designing that would "fit".
- 2) We just spend quite a bit of money on the Dickson Street improvements. The narrow roads that were to keep road traffic down and the upgrading of the entire area was to encourage foot traffic to the eating establishments, shops and bars. I do not think this monolith (Divinity) will be compatible with this vision. The increase in traffic (if it is successful) and the building "presence" do not fit.
- 4) Please remember it appears that changes and step backs that I see are on the Dickson St. side of the project and I have not seen views of the other three sides but they appear to be 112+ foot (according to the new plan in the paper Sunday) WALLS, not inviting to foot traffic going to or from the downtown plus it will look like a guard tower over Dickson St.
- 5) We have never seen a scale drawing of what this building will look like next to the existing structures. There is probably a good reason for this since I believe it will look really out of place.
- 3) Has the "gated community" issue been resolved?
- 4) According to the paper on Sunday Mr. Barber stated that - it didn't matter whether the plan was approved or not because it would still go to the City Council - I feel that was quite an arrogant statement from a person who keeps telling us how he is working WITH the city. I realize this is true, that a council member can have it brought forward regardless of the planning commission outcome, however such a statement does not seem appropriate from a developer who is working WITH the city.

PLEASE vote no.

Sincerely,
Jo Ann Kvamme

From: ccramer <ccramer@uark.edu>
To: <balliehi@sbcglobal.net>, <jillanthes@sbcglobal.net>, <cclark359@aol.com>, <jgraves@bassettlawfirm.com>, <cmyers@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mgl-arch.com>, <hharris@lindsey.com>
Date: Mon, Jun 26, 2006 2:42 PM
Subject: letter against Divinity

June 26, 2006

Dear Planning Commissioners,

Thanks to you all for the incredible amount of time and energy you devote to trying to see that our wonderful little city stays wonderful and livable during this critical period of growth.

I am writing to ask you to deny applicant's current plan for the Divinity project, on the ground that it still does not meet requirements for compatibility with and transition to its surroundings, as set out in section 166.14 (D) (2) (c) of the Unified Development Code. It is difficult to agree that the minor changes made late last week to their plan by applicant suddenly allow it to meet code requirements. It looks and feels pretty much the same, and its bulk and height still make it enormously out of scale.

I ask you also to consider that, although legally (to my understanding) this project, if built, will not set a precedent or standard for further development in the area, in practical terms, it necessarily will. If the Divinity complex as submitted is built, any subsequent nearby development would then have to meet the cited code in relation to it. Since subsequent projects will be subject to the 6-story/84' height restriction recently passed by City Council, integrating Divinity into the surrounding area won't be possible, in terms of height. So other developers will have an impossible requirement: adhere to both height restrictions and compatibility/transition codes. Further, based on the six hours I spent gathering signatures at the Farmer's Market, and the many emails and calls I've had since against the proposed plan, I believe most people would not like to see Divinity's stylistic vocabulary repeated.

This single project will forever change what is arguably Fayetteville's most important district, in accordance with the ambition of a few people. Dickson Street and downtown should belong to everyone.

Moreover, this single project would go far towards eroding the reputation for home-grown charm known by travelers all over the country.

I know that we all appreciate the difficult position of the Planning Staff, maintaining professionalism and treating each applicant fairly and exactly the same, with strict application of Fayetteville's building codes. Their jobs require extreme diplomacy, and we thank them for that and for their hard work.

The Divinity proposal, which could not help but excite controversy, has probably especially taxed Staff. I look forward to a time when codes expressing the citizens' vision as articulated by the Dover-Kohl

consultants, hired by the city, are unambiguously in place and work is reduced for Staff, Commissioners, and residents who feel bound to do their civic duties of oversight.

Sincerely,
Connie Cramer
850 Eastwood Drive
Fayetteville

Note: I hope you will consider the people who spoke and wrote against the Divinity project for your first two meetings considering it. They may not realize they needed to repeat their opposition.

CC: <planning@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>

From: "Victoria Sowder" <vsowder@beta-rubicon.com>
To: "Victoria Sowder" <vsowder@beta-rubicon.com>, <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassetllawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, "Dan Coody" <dcoody@ci.fayetteville.ar.us>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, "Don Marr" <donmarr@swbell.net>, "Robert Rhoads" <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <ljordan7@hotmail.com>
Date: Mon, Jun 26, 2006 8:33 AM
Subject: support for the Divinity project

Untitled Stationery

Good morning --

I am writing this note jointly to the Planning Commission, to the City Council members, and to the Mayor to re-state my continuing support for the Divinity project.

In my opinion, it presents an excellent solution to a historically unattractive intersection -- an intersection that is increasingly important in its location to link Dickson Street with the our town Square. Further, the concept and the revised design reflect the eclectic energy and vitality that comprise our downtown.

I believe, too, that our City leaders who had a eye on the future back around 1870 when they welcomed the University of Arkansas to a hillside farm would applaud the vision and the boldness of modern-day leaders who can recognize and encourage important milestone opportunities such as those presented by the the Divinity project.

I thank you for considering my opinion -- and for your continuing service to Fayetteville's future -- and I hope that you, too, will follow the recommendation of the Planning staff and support the Divinity project.

Victoria Sowder

Victoria Sowder
 Administrative Manager
 Beta-Rubicon, Inc.
 21 W. Mountain, Suite 123
 Fayetteville AR 72701-6064
 Phone: 479.444.8118
 Fax: 479.444.0089
 www.beta-rubicon.com

From: "Paul Roth" <profcr@sbcglobal.net>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, <Ddonmarr@swbell.net>, <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <lljordan7@hotmail.com>
Date: Mon, Jun 26, 2006 9:50 AM
Subject: Divinity project

I am in favor of this project. It makes SO much more sense to go up, rather than have outward sprawl. I feel the developer had made enormous strides from the first concept to what it is now. I think it will only make Fayetteville more attractive than to detract from the jewel that we have come to call our home. I think it will be an asset to the Dickson street landscape.

Paul Roth
614 N. Sequoyah Drive
Fayetteville, Arkansas 72701
USA
479.521.6371

From: "Richard P. Osborne" <RPO@RPOLaw.com>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, <Ddonmarr@swbell.net>, <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <lljordan7@hotmail.com>
Date: Mon, Jun 26, 2006 9:50 AM
Subject: Divinity Project

I hope you noticed the letter to the editor from Ron Bumpass in the Northwest Arkansas Times on Sunday, June 25. If not, it would be worth your time to read.

I hope that you are able to vote for the Divinity Hotel project.

Rick

Richard P. Osborne, Attorney
26 East Center Street
Fayetteville, AR 72701

Office 479-521-5555
Fax 479-444-0000

From: Tony Beardsley <tbeardsl1@yahoo.com>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassetlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, <Ddonmarr@swbell.net>, <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <ljordan7@hotmail.com>
Date: Mon, Jun 26, 2006 9:56 AM
Subject: against Divinity project

The Divinity project will ruin the character of Dickson street. It is out of place (too tall) and will be an eyesore from the beginning.

Please vote against the Divinity project.

Tony Beardsley

Why keep checking for Mail? The all-new Yahoo! Mail Beta shows you when there are new messages.

**STAFF REPORT FOR MAY 1, 2006
PLANNING COMMISSION MEETING**



THE CITY OF FAYETTEVILLE, ARKANSAS

Special Planning Commission Meeting
May 01, 2006

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: April 28, 2006

LSD 06-1997: Large Scale Development (DIVINITY HOTEL & CONDOS, 484): Submitted by H2 ENGINEERING, INC. for property located at 101 W DICKSON, BETWEEN CHURCH AND BLOCK. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 1.42 acres. The request is for a 10-story mixed use building with a hotel, two restaurants, retail space, parking garage and condominiums with a total of 84 residential dwelling units.

Property Owner: LYNNKOHN, LLC
Planner: ANDREW GARNER

Developer: THE BARBER GROUP

Process: Large Scale Development 06-1997 for Divinity Hotel & Condos was submitted to the Planning Division on March 02, 2006. The Subdivision Committee on March 30, after review and comment, voted 2-1 for this item to be forwarded to the full Planning Commission with a recommendation for denial, based on the project proposed at that time. The applicant did not submit plats and elevations to make the April 10 Planning Commission agenda, therefore staff did not place the item onto the Planning Commission agenda. The applicant did submit plats and elevations, as required by the Planning Division, in order to be placed on the Planning Commission agenda of April 24. Additionally, the applicant submitted additional updated elevations to the Planning Commission at its agenda session for review and comment. Staff was not able to make a recommendation on those elevations without further review. On April 24, the Planning Commission heard the Planning Staff report and recommendation on the revised elevations, public comment, and the applicant's presentation of the project. Due to the large amount of time required for public comment and the applicant's presentation, and the large agenda of items at the April 24th meeting, a motion was made by Commissioner Graves and seconded by Commissioner Ostner to table the remaining discussion of this item until a special meeting of the Planning Commission on May 01, 2006. The motion passed unanimously. The original staff report that was presented to the Planning Commission on April 24 has been included (Attch. A), as nothing has changed with this item since it was last heard. Public comment, both the written and staff's synopsis of the verbal comment taken on Monday, April 24, has been included, as well (Attch. B).

Current Proposal: In response to comments from staff and the Subdivision Committee on March 30 regarding certain elevations, building height, compatibility, etc., the applicant redesigned many aspects of the structure, thereby reducing the maximum height and scale of the structure. The total number of condominiums and hotel rooms is similar to the number of units reviewed by the Subdivision Committee though reduced somewhat. In redesigning the structure, the square footage of some of the uses changed and a rooftop restaurant and bar is now being proposed in addition to the street level restaurant included on the plans reviewed by the Subdivision Committee. The building

footprint of the currently proposed structure is the same as the original proposal that covered 97% of the 1.42-acre site. The primary function of the structure is a 137-room boutique hotel with some condominium units (77 hotel-only units, 60 condo/hotel units, and 16 condo-only units), retail space, two restaurants, and two bars. Included in the structure are amenities associated with the hotel such as pool, fitness facility, ballroom, and banquet/meeting facilities. The square footage of each proposed use and parking requirements is depicted in *Table 2* of the staff report.

Materials: Materials and design features such as brick, glass, concrete, balconies, overhangs, terraces, outdoor dining and deck areas have been incorporated with the proposed revisions. The use of brick materials in a large percentage of the building has greatly aided in helping the project be compatible with other projects on Dickson Street and in the surrounding area, while keeping its unique design. Other surrounding buildings such as Collier's Drugstore has elements of metal and colors that are consistent with the proposed project. Additionally, the applicant has proposed retail windows/shop fronts for the majority of the street level, which is consistent with the Dickson Street area as well. Along the west elevation, the Subdivision Committee voiced concerns with this being relatively unarticulated. The elevation was revised to incorporate shop windows that can serve as display/exhibit space for retail merchants.

Building Transition/Height: The scale and height of the structure has diminished significantly since the initial review by the Subdivision Committee. The original maximum height at 225 feet in 15 stories has been reduced to 181 feet in 10 stories. The 'tower' feature as originally presented has been omitted, and the highest portion of the structure along Dickson Street is a transparent glass cylinder-shaped feature that provides usable public space at the ground and top levels, adding an artful feature to this façade on Dickson Street as opposed to the former rather monolithic wall that did not transition along Dickson Street. Additionally, the applicant has made many changes to reduce the height on the Dickson Street façade, stepping the structure back approximately 65 feet for the majority of the building front above four stories, which accomplishes many of the goals of transitioning from surrounding properties. This component of the project staff supports, as it begins to help transition from surrounding properties that could, with future development, be as tall as six stories or greater. The south elevation transitions in a similar way, stepping down from the mass of the overall building adjacent to the properties to the south. The west elevation (facing onto Church Street) has the most dramatic rise in building height adjacent to the street, rising 159 feet to the top of the parapet. Staff can not support this elevation at this time, finding that it does not adequately transition from the surrounding properties, which a project should do to meet Commercial Design Standards. Additionally, the east elevation that fronts onto Block Street rises to 108 feet in eight stories, without a great deal of transition to the smaller surrounding structures.

A few other tall structures do exist in downtown Fayetteville, as has been discussed by those in support of the project. These include the EJ Ball building, Radisson Hotel, and Hillcrest Towers, all of which exist in the downtown core area and were constructed prior to any city requirements regarding Commercial Design Standards. A recently approved 16-story East Square Redevelopment (Mountain Inn) project was evaluated for Commercial Design Standards by the Planning Commission and ultimately City Council, and found compliant in its location along College Avenue in the downtown core to transition to surrounding structures, which includes the Federal Building and Bank of America Building, and to be compatible with the policies and goals of the City, especially those in the downtown area.

Staff has supported other projects in the Dickson Street area with a height greater than that proposed

with the Downtown Zoning Code and as discussed in the Downtown Master Plan, a policy document adopted by the City Council in 2004. In those instances, staff worked with the applicant to find an appropriate transition and level of compatibility in appearance, utilizing building materials and colors, the stepping back of facades to transition from lower surrounding properties. In 1999, the Three Sisters building was approved with a maximum five-story height of 67 feet, located 52 feet back from Dickson Street; staff supported this project, though one Planning Commissioner voted against it, finding specifically that it did not transition nor was it compatible with surrounding properties, thus did not Commercial Design Standards. In the case of the Legacy Building that is under construction, the structure steps back from the property as it rises to a maximum height of seven stories in approximately 112 feet. More recently, for the Lofts at Underwood Plaza, the Powerhouse Avenue front façade was approved with a two-story elevation that steps back before rising upward, and the Dickson Street façade was approved by the Planning Commission only after reducing the elevation to a four-story height and stepping back several times for an ultimate height of 138 feet in nine stories near the center of the property. The highest portion of this structure constituted only a small percentage of the overall square feet. The applicants and architects for Divinity have shown a willingness to work with staff on numerous occasions to help better address these issues for this project, as indicated with the reduction in overall height, elimination of the more imposing tower feature, stepping back of the Dickson Street façade above four stories and with the overall scale and impact of the project itself, especially on Dickson Street, in order to achieve compatibility and transition. However, staff finds that the two principal east and west facades, both of which front onto public streets, and the overall building height – especially in feet – do not provide adequate transition and compatibility and therefore recommends denial of the project as presented.

Compatible Use: The compatibility of use is not in question with this project, in staff's opinion. The C-3 zoning district permits the uses proposed by the applicants by right, and staff supports such a mixture of uses that will allow for both day and night levels of activity, thereby creating a safe pedestrian environment. The project also could potentially begin to accomplish at least one of the goals of the Downtown Master Plan, which is to provide for a link from the Dickson Street area to the Downtown/Square, two distinctly different zones within the urban context of the City of Fayetteville.

Public Comment: The citizens of Fayetteville have been actively involved and concerned with this project, which has been the subject of several newspaper articles and news stories. Planning staff has received numerous phone calls regarding this project, and has had several members of the public stop by the Planning Division office to look at the applicant's plans. Staff has also received several emails and letters that have been provided to the Planning Commissioners. At the April 24, 2006 meeting 41 people commented with a fair number of comments for and against the project. A list of the members of the public that commented at the April 24, 2006 meeting and a summary of concerns raised is included in the supplemental information with this report. In general, those opposed to the project cited that the proposed structure was not compatible with the surrounding area on Dickson Street, and would result in adverse impacts to community character. In general, those in favor of the project cited that the introduction of the proposed structure would add to the eclectic mix of architecture in the area, would be compatible, and would be an economic benefit to downtown Fayetteville and the entire City.

Request: The request is for Large Scale Development approval of the submitted site plans and elevations for the proposed commercial/residential development.

Recommendation: Finding that pursuant to Fayetteville Unified Development Code Section 166.14 (D)(2)(c), the structure does not meet the design element guidelines for commercial structures to provide compatibility and transition between adjoining development, staff recommends denial of LSD 06-1997 for Divinity Hotel & Condos. It is the charge of the Planning Commission to determine if the project meets with current ordinance requirements, including Commercial Design Standards. Rationale for this finding is discussed under item No. 1 below.

THE PLANNING COMMISSION TABLED THIS ITEM TO A SPECIAL PLANNING COMMISSION MEETING ON MAY 1, 2006 WITH A VOTE OF 9-0-0 (04/24/06)

1. Planning Commission determination of Commercial Design Standards and compatibility with the surrounding commercial developments.

Staff finds that the proposed building elevations do not meet architectural design standards for commercial structures with regard to compatibility and transition in appearance to adjoining properties. Staff recommends the building height be stepped back from the street, finding that a reduced height (3-4 stories) at the street level would be more compatible with surrounding, lower-story development on the two-lane Dickson Street, Block Avenue, and Church Avenue. A stepped-back design would provide a transition so that the street front is on a pedestrian scale, using materials that are also on a more pedestrian scale. Staff also finds that more attempts to reduce the overall height are warranted. No other structure on Dickson Street approaches the elevation and height of this particular proposal, creating difficulty in transition and compatibility. The elevations do, for the most part, exhibit a variety of materials and articulation. It appears that the design has avoided:

- (1) Unpainted concrete precision block walls;*
- (2) Square, "boxlike" structures;*
- (3) Metal siding which dominates the main façade; and*
- (4) Large out of scale signs with flashy colors.*

Materials and design features such as brick, glass, concrete, balconies, overhangs, terraces, outdoor dining and deck areas have been incorporated. The structure has been stepped back from the Dickson Street façade primarily, with a four-story elevation at this level. The structure then steps back before going higher. The 'tower' feature as originally presented has been omitted. A maximum building height is proposed at 10 stories (225 feet) for a small portion of the building. The height at 225 feet greatly exceeds, however, the height of the 9-story, 118-foot Lofts at Underwood building recently approved by the Planning Commission, as a comparison.

After review of the applicant's final elevations presented on 04/24/06, the project has been revised from 15-stories and 225' in height, to 10-stories and 181' in height. Several of staff's concerns with the original proposed structure such as materials and articulation have been addressed with these revisions. However, staff finds that the scale and mass of the structure when compared with surrounding structures on Dickson Street and the immediate vicinity is not compatible, and does not provide adequate transition between adjoining development. Finding that adjoining development and other structures in the vicinity are a much smaller scale, generally 1-4 stories, and that the overall bulk and height of the proposed 10-story structure is out of proportion and on a different scale than surrounding development, staff can not find that the project achieves adequate transition and compatibility in appearance with surrounding properties. Based on this finding, staff recommends denial of the project.

LIST OF ATTACHMENTS

Attachment A Staff Report 04/24/06

Attachment B Public Comment

Attachment B-1 Sign-In Sheet/Comment Highlights 04/24/06 Planning
Commission Meeting

Attachment B-2 Written Comment

Attachment C Supplementary Materials

**PUBLIC COMMENT RECEIVED AFTER
MAY 1, 2006
PLANNING COMMISSION MEETING**

NORTHWEST OFFICE PROPERTIES, LLC
209 North Block Avenue
Fayetteville, Arkansas 72701-5204
479-442-3554

TO: Jeremy Pate
Director of Current Planning
Planning Division
City of Fayetteville
113 West Mountain
Fayetteville AR 72701

FROM: Tom Overbey
toverbey@ogsw.com

RE: DIVINITY HOTEL & CONDOS
LSD 06-1997

DATE: June 19, 2006

At the time of the vacation of the alley serving this block (VAC 06-1897), it was my understanding that the Solid Waste department, City Transportation department and the Fire Department were agreeable to the alley vacation and proposed relocation. It was also my understanding that the users of the alley would be able to continue their current uses of the alley once it is relocated. As we have discussed with members of the planning staff for some time, this is important for our property since we will be using the alley for egress for our visitors when we construct a new building and change the ingress and parking on our property.

The newly filed plans for the Divinity project raise some concerns regarding alley access and use. With the parking deck along Church Street now covering the alley as it exits west to Church Street, it appears that passing north up the alley and exiting onto Church Street may be more difficult. I am particularly concerned about fire trucks, garbage trucks and other service vehicles using the alley and making the 90 degree turn to exit to Church Street.

The plan drawings show a large truck parked in the alley after it turns west to Church Street. While I recognize that this is just an illustration, use of the alley would be impeded if the Divinity Hotel plans to use the alley as a loading and unloading area on a regular basis. Once a visitor traveled up the alley to exit on Church Street, it would be very difficult to turn around if a large truck were being unloaded in the alley.

Would the front and back of the covered portion of the alley be marked as a public alley? Otherwise, it may not appear to be a public access to someone not familiar with the area. How will the alley be available for use during construction? In the discussion on the alley vacation, the developer stated that the alley would be open and usable to Church Street before the existing exit to Dickson Street was closed. How will that be accomplished with the now proposed covering over the alleyway to Church Street?

These are initial comments which may be revised upon further review.

C:\DATA\FayOffice\NW OfficeProp.FayPlanning.L2.doc

From: "Garlock, James Wesley" <james_garlock@merck.com>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 5/25/06 9:01AM
Subject: The Divinity Project

Dear Jesse and the Planning Division-

I wanted to express my opposition to the Divinity Project on Dickson Street. If the developer has an interest in making Fayetteville a better place, put this kind of project on Sixth Street where the infrastructure is already in place to handle the increased traffic. Also, the economic development is needed in that area of town.

There is enough of a controversy to show that this type of project should not be on Dickson Street if planners are in tune with the public's interest. (Something like the height and style of Three Sisters Building is great! Not this scale and style). The Infrastructure and height does not work -common sense- still can go along way.

We would like to see Fayetteville grow - but in the right way. Bigger is not always better. I know you have heard it all because I have been listening too, through the Access Fayetteville Channel. Thank you for your time and efforts on this matter. Please do not approve this Divinity Project.

Sincerely,

James Garlock

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From: "Bob Hamilton" <bob40h@cox.net>
To: <jpate@ci.fayetteville.ar.us>
Date: 5/1/06 4:50PM
Subject: Divinity Building

My wife and I, Terry and Robert Hamilton, have lived in Fayetteville for 35 years (2622 N Emerald Ave, 521-7257). We have watched Dickson Street grow up, beginning with the Walton Arts Center. We are supporters of WAC and are very happy for Fayetteville to have it. Dickson Street has come a long way and is becoming a great location for residents and visitors alike. As an example, tomorrow night we will be participating in the Savor the Flavor project. We are thrilled the Underwood Building has been approved and the Legacy Building looks like another winner. We completely support the Divinity Building and all that goes with it - parking (desperately needed on Dickson Street), restaurants, public spaces, living spaces for residents and guests, etc. These buildings will make Dickson an even greater place, matching the large buildings being built on campus just down the street. We are disappointed that some members of the planning commission are not as enthusiastic about the Divinity Building as so many of us in Fayetteville are. Please support this project.

From: Webmaster
To: Broyles, Lana; Conklin, Tim; Pate, Jeremy
Date: 5/5/06 1:19PM
Subject: Fwd: Form submission from accessfayetteville.org

The attached email was received in the webmaster mail. To reply, you must copy and paste the individuals email address in a new mail message.

Thanks,

Webmaster
www.accessfayetteville.org
City of Fayetteville, Arkansas
webmaster@ci.fayetteville.ar.us

>>> <nobody@accessfayetteville.org> 4/26/2006 4:11 pm >>>

You have received the following contact from the Access Fayetteville Feedback form.

name: Margaret Hunt
email: JMAR34@sbcglobal.net
subject: Dickson Street

comments: As you view Dickson St we note that the footprint has already changed with the 3 Sisters, Legacy, Walton Art, and coming-up, the Underwood Lofts. It is no longer that "quirky little street for students" to remember and return to as it is becoming too expensive and "yuppy" for them. The students will make another "place" for themselves over time. We only need to consider how we want our city to progress-as a smaller version of Las Vegas/Dallas--or as a pleasant university city with green space, open to the sky where we see the trees without viewing through the canyon of major storied buildings. Please proceed cautiously and don't be pressured by economic factors or rush to a decision. One other note: we are being inundated with taxes, surcharges, fees, rising costs on food, utilities, you name it. Dr. Hunt's work puts him in touch hourly with those in the poverty level and they are hurting in a big way, as are those in our neighbor!

hood and age group who are on fixed incomes. Alderman Marr is right when he wants an evaluation of all expected plans/programs up-coming. We are not at all sure that we, the public, can/ will support any more taxes/fees-no matter what the cause. Thanks for listening.

From: Judy Smith <jbs5100@sbcglobal.net>
To: <planning@ci.fayetteville.ar.us>
Date: Thu, May 4, 2006 11:32 PM
Subject: Dickson St. development

Before you approve a hotel for Dickson St., I'd like to recommend that you send someone to see how Charlottesville, VA has handled such development. Charlottesville is a university town with a downtown historic district. They've done a great job of integrating old and new, including a very nice Omni hotel and a brick-paved pedestrian open-air mall of shops, restaurants and other businesses. The Omni is seven stories, brick facade, with a lowered entry that fits into the scale of surrounding older buildings. It's airy open restaurant, lounge area opens onto the pedestrian mall. Signage is discreet and tasteful.

I'm glad to see that the city council has agreed on a height limit for buildings. Now I hope that the planning commission will see that any hotel built on Dickson Street fits into its surroundings.

Judy Smith
jbs5100@sbcglobal.net

From: "O'Leary-Kelly, Anne" <AOKelly@walton.uark.edu>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, May 1, 2006 9:17 AM
Subject: Divinity

Good morning. Given that the discussion on the Divinity project will continue at this evening's meeting, I wanted to send another e-mail encouraging each of you to think very carefully about the potential impact of this project. I know that the economic aspects of this decision are not part of your equation, so I won't address those. It seems that the issue for you comes down to compatibility. I think that Karen Reese said it simply but accurately at the last meeting-this building is just too high. It is not compatible with the standards in the city's Master Plan, which reflects our community's wisdom and preferences. In addition, the building is much larger than the developers are implying in that each story is higher than standard, and the taller architectural feature is apparently significantly higher than the 10 stories they are promising. This is the wrong building for Dickson Street. We should not buckle under to pressure. We should have faith in the vibrancy of our community. Other developers and builders will come.

Thanks for listening and many thanks for your service to the community.

Anne M. O'Leary-Kelly

220 E. Lafayette St.

From: "Chris and Lesa Moyer" <candlmoyer@cox.net>
To: <rrhoads@hallestill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <mayor@ci.fayetteville.ar.us>, <planning@ci.fayetteville.ar.us>
Date: Sun, Apr 30, 2006 7:39 PM
Subject: Proposed Divinity Building

We are writing to reiterate our objections to the proposed Divinity Building; both the original plan and the revised plan. 15 stories is too tall for Dickson Street, 10 stories is too tall for Dickson Street, especially in this high, prominent location. The Downtown Master Plan calls for buildings no higher than 6 stories and we feel that it should be followed.

Once again, we are asking you to please help preserve the character and charm of Fayetteville and the quality of life of its citizens.

Thank you.

Chris and Lesa Moyer
1435 Meadowcliff Drive
Fayetteville, AR 72703
582-1063

----- Original Message -----

From: Chris and Lesa Moyer
To: rrhoads@hallestill.com ; ward3_pos2@ci.fayetteville.ar.us ; mayor@ci.fayetteville.ar.us
Sent: Wednesday, April 05, 2006 1:00 PM
Subject: proposed Divinity building

Dear Sirs:

We are writing to urge you to do everything in your power to prevent the construction of the Divinity Building. It is a sad caricature of development run amok.

Please help preserve the character and charm of Fayetteville and the quality of life of its citizens.

Thank you.

Chris and Lesa Moyer
1435 Meadowcliff Drive
Fayetteville, AR 72703
582-1063

From: <M2Ward3732@aol.com>
To: <planning@ci.fayetteville.ar.us>
Date: Sat, Apr 29, 2006 8:20 AM
Subject: RE:DIVINITY BUILDING

To the Planning Commissioners:

Rather than send each of you an email at your personal address I was told that using this address would reach you.

I was one of the many who attended the hearing last Monday night. I hope that the "standing room only" plus those standing outside the hall sent a message that most Fayetteville residents are against this building. I gathered from listening to those speaking for the Divinity Building that they were more interested in the economics than whether the building was in keeping with the character of Dickson Street. I object to its scale & design. I also am very concerned about traffic in that area. The area around the Post Office is already heavily congested. Going downtown and to the Farmer's Market by way of Block Street will become more difficult. Dickson Street is touted as a "pedestrian friendly" street; what would a building such as this do to Dickson? (It seems the large hotel proposed downtown would take care of any additional need for rooms for those visiting Fayetteville.) When I read about Fayetteville in magazines, it is the "charm" that is written about. This building detracts from that charm. Dickson needs more parking spaces, not more restaurants and bars! Thank you for your attention.

Martha Ward
432 Hawthorn

When we retired here from Minneapolis in 1998, we chose Fayetteville because of the University and the charm of the city. I don't want to live in another "Rogers".

From: "David Harsh" <dgharsh@arkansasusa.com>
To: <planning@ci.fayetteville.ar.us>
Date: Fri, Apr 28, 2006 5:05 PM
Subject: Divinity

Hello,

I wanted to express my opinion of the proposed Divinity building on Dickson Street. Please share this information with the Planning committee and City Council. This is an issue of \$\$\$ versus character and aesthetics of Dickson Street. Can it be that simple? Yes...People will wring their hands, but they could say it would not be compatible due to the immense size. We will be making a mistake if we allow the 10 story building to be built. Make the tough decisions and go forward. Feelings will be hurt and emotions will rise...You can do it.

David G. Harsh
571.3469

From: "Victoria Sowder" <vsowder@beta-rubicon.com>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>, "Dan Coody" <dcoody@ci.fayetteville.ar.us>, "Victoria Sowder" <vsowder@beta-rubicon.com>, <bthiel@cox.net>, <ward2_pos1@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, "Don Marr" <donmarr@swbell.net>, "Robert Rhoads" <RRhoads@HallEstill.com>, <ward3_pos2@ci.fayetteville.ar.us>, <ward4_pos1@ci.fayetteville.ar.us>, <lljordan7@hotmail.com>
Date: Fri, Apr 28, 2006 4:32 PM
Subject: support for the Divinity project

Untitled Stationery
Good afternoon,

I am writing this note jointly to the Planning Commission, to the City Council members, and to the Mayor to state my support for the Divinity project.

Although I wrote last week to the Planning Commission members with a brief note of my approval, that note was written prior to the April 24 Planning Commission meeting in which the developers presented more detailed information on the project. I watched on TV the portion of that meeting that featured a more complete picture of the Divinity, and as a result I came away with an even better feeling about the project and about the developers' vision for this project.

I am impressed with the way the developers re-formulated the entire design to bring it more in keeping w/current or in-progress projects. I salute the developers' awareness of the difficult task of somehow architecturally uniting the various "patchwork" elements of our other downtown/Dickson buildings and to use several building materials in a project for a particularly critical (and long-neglected) intersection (Dickson/Block). It is obvious that they were mindful of recommended design considerations and of the responsibility that they have assumed in proposing this project, which can fulfill the need for an important and living "glue" between the Square area and the Dickson Street district. Further, I find the design sensitively balanced with regard to inherent site requirements and the developers' goal of making such a project "work."

I welcome the prospect of additional tax revenues that this project would directly bring, and I welcome the prospect of the additional indirect tax revenues that this project would bring via increased tourism, convention, and professional meeting visitors, in addition to additional jobs, additions to our array of restaurant choices, a little more retail opportunity space, and added parking facilities.

Finally, it seems to me that our City leaders who had a eye on the future back around in 1870 when they welcomed the University of Arkansas to a hillside farm would applaud the vision and the boldness of modern-day leaders who can recognize and encourage important economic development opportunities such as the one that we have with the Divinity project.

I thank you for considering my opinion -- and for your continuing service to Fayetteville's future -- and I hope that you, too, will support the Divinity project.

Victoria Sowder

Victoria Sowder
Administrative Manager
Beta-Rubicon, Inc.
21 W. Mountain, Suite 123
Fayetteville AR 72701-6064
Phone: 479.444.8118
Fax: 479.444.0089
www.beta-rubicon.com

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CC: <bbarber@barbergroup.biz>, "Steve Rust" <srust@fedcinc.com>, "Bill Ramsey (E-mail)" <bramsey@FayettevilleAR.com>

PLANNING COMMISSION MINUTES
APRIL 24, 2006

LSD 06-1997: Large Scale Development (DIVINITY HOTEL & CONDOS, 484):
Submitted by H2 ENGINEERING, INC. for property located at 101 W. DICKSON, BETWEEN CHURCH AND BLOCK. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 1.41 acres. The request is for a 10-story mixed use building with a hotel, restaurant, retail space, parking garage, and condominiums with 16 residential dwelling units and 137 hotel units.

Anthes: May we have the staff report, please?

Garner: Before we get started, the applicant has submitted some new information that I'll just pass out here.

Anthes: I think we're having some problems with the microphones. If we can try to keep the doors closed that minimizes some feedback with the television outside which is interfering with our microphones. Testing. Okay, that's working. All right, we're back, good. If commissioners would pull their mikes in, also staff, do we have a sign-in sheet available at the podium? I want to make sure that we have the opportunity to record everyone's name that would like to speak. Thank you.

Garner: This property is located on the south side of Dickson Street between Church Avenue and Block Avenue. It contains approximately 1.4 acres and is zoned C-3 Central Commercial. The site is surrounded by commercial and office development in downtown Fayetteville and Dickson Street with single family residents adjacent to the southeastern border of the property. As submitted to the Subdivision Committee on March 30th, 2006, the applicant proposed a fifteen-story 225 feet in height multi-use building for 142 room hotel with some condominium units, retail space, restaurant, bar, and other hotel accessory uses. In response to comments from the Subdivision Committee regarding certain building elevations, building height and compatibility, the applicant has redesigned many aspects of this structure thereby reducing the maximum height and scale of this structure. The project as proposed before you would be a 137 room boutique hotel with some condominium units, 77 hotel only units, 60 condo hotel units, and 16 condo only units, retail space, two restaurants, and two bars. The development would provide access to Church Avenue and Block Avenue with a 380 spaced parking deck interior to the structure. It would also provide a 20 foot public alley linking the existing alley to Church Avenue. As you can see, we have a large audience here for this item and other items. Staff has received a large number of phone calls and as you know there has been a large amount of press coverage for this project. Staff has included the written comments we have to planning commission. We do not have a large amount, but we have received several emails. We have those in your packet, the ones that we had sufficient time to get to you. In addition, we had one note that was passed to me right

before we started here that the public, or one member of the public, requests being able to comment after the applicant's presentation after they've seen what the new elevations look like. Street improvements that would be required with this project include stalling a left turn lane at the traffic signal at Dickson Street and St. Charles and improved sidewalks to a minimum of 10 feet along all street frontages, continuing the sidewalk to the property south to Spring Street, replacing all existing sidewalks in the same manner as those constructed on Dickson Street. Regarding vehicular access, there is two waiver requests, one for a waiver of the driveway with the southern driveway onto Block Avenue is 16 feet in width and they're requesting a waiver for that width to be approximately 1.3 feet greater than allowed. They're also requesting a waiver for the driveway curve radii and several of these, the curved radius, are smaller than what is allowed by ordinance and staff is recommending in favor of both of these waiver requests because in this downtown area with its limited space it makes sense to allow for these. I will let Jeremy Pate, Director of Planning, discuss commercial design standards and their applicability to this project.

Anthes: Mr. Pate.

Pate: Before we begin that, we were also handed several other faxes and emails today just go over those. Conrad Odom sent a letter that you don't have copies of in support, Otis Robinson in support, Holly Brown which I believe I've passed out with that against this project, and O'Leary Kelly against this project, Scott Marie Kelly, Victoria Souder in support of this project, those were not included in your packets, but I wanted you to be aware of those public comments that we received either Friday or today. With regard to the process for this project, it has followed the typical large scale development process that is dictated by the planning commission. This project was recommended for denial to the planning commission by subdivision with a 2-1 vote. The applicants did submit their revisions in a timely manner with the meeting deadline of 10 am last Monday. What was different was that there were also additional elevations that were changed by the applicant. There was discussion by the subdivision committee about what revisions could be made, however the recommendations that come from subdivision committee were those elevations of a fifteen-story structure. I did want to make that clear. That is something that the planning division sets those deadlines that it requires the applicant to meet otherwise we simply will not place it on the planning commission agenda. A couple of items I would like to go over. Obviously, there has been a lot of public comments and discussion about this project. A couple of things that we cannot consider about this project, the downtown zoning code has been forwarded with a recommendation for approval by the planning commission, the City Council chose to waive the 90 day suspension of any

permits for this particular project, so by resolution the council has waived that requirement. The current amendment to building heights that is before the City Council and the C-3 Zoning District is also not applicable to this project and should not be considered. That issue, I think primarily, is the compatibility to appearance and with regard to surrounding properties for the downtown and Dickson Streets with regard to commercial design standards. I'd like to go over a couple of notes that I made if you will allow me the time. A couple of things that we consider with regard to commercial design standards, and I did issue a memo stating that building height is important and the appearance of the structure is something that is subject to commercial design standards. It has been discussed on several different occasions, most notably in the Dickson Street area with Three Sisters. We did include minutes from that large scale development that was approved. The Three Sisters project has a maximum height of 67 feet and five stories. One planning commissioner at that point did vote against the project citing specifically and I quote 'I do have a concern about the height of the building. I was originally concerned about the scale in that location. That is my concern. I believe the project is oversized for that particular location, and would not meet commercial design standards' end quote. Staff has evaluated this project in a number of different ways with regard to commercial design standards. We began, as you know...

Anthes: May I please have that door be closed? Thank you.

Pate: Subdivision committee reviewed with a maximum 225 feet height I believe and 15 stories. After discussion by the subdivision committee, which is obviously comprised by three members of this committee, there were significant revisions made by the applicant. We worked with them over the next four weeks to present something to you that has significantly changed. I do want to applaud them for their efforts in trying to get something to you as a commission that they feel would meet the commercial design standards and that would be a compatible and attractive addition to our community. With regard to how a project fits into the context of an area, a couple of projects come to mind, about four to six weeks ago the planning commission reviewed and approved a building that was entirely metal and met commercial design standards within an industrial district. The planning commission has also reviewed and approved other projects that might not fit onto Dickson Street such as the 16-story and 12-story structures that have been approved out on Joyce Street. I feel that it is very important that the context in which a project is located should be evaluated in appearance and construction of a building and whether it meets commercial design standards that includes whether the area is a regional area or an industrial area, a residential area, those have a specific type of scale and type of language in regard to architectural compatibility. With this particular project, I feel the planning commission

is charged as a nine member board to make the decision whether they feel this applicant has made the effort to create a structure to present to you a structure that meets those commercial design standards, along with all the other ordinances in place at this time. We obviously there are two or three waiver requests that we feel comfortable recommending approval for, for curved radii and entry and we are recommending approval of those particular items. I think that the materials have come along way in regard to the items that the subdivision committee recommended in making more use of brick and things of that nature that are more compatible in the downtown area. There are more materials that have been utilized with this latest proposal that you have before you and I think will be presented this evening. In the time since staff received full elevations, the booklets I believe you have in front of you, we've been able to evaluate those. As presented, I believe, is the maximum 10-story building I can't remember the maximum height, I believe 181 feet. I'll reference the end of the package that you have that gives the height in stories. The height has been significantly reduced on the Dickson Street side the north elevation to primarily a four-story façade 65 feet in height. The one component that does increase above that at the Dickson Street façade is the cylinder at the northwest corner. The facades that have also decreased in height that are still relatively high are the west side and the east façade, both of which go up at least 8-9 stories. Those elevations there are for your review. At this point in time, I'd like to have the applicant present, or with the chair, when the applicant does present those elevations he can present those more clearly than I. At this point in time, these elevations that you have in front of you, staff is not able to support this project as presented and would like the planning commission to obviously have the public input for this project and the discussion that it warrants.

Anthes: Mr. Pate, do you have the staff recommendation in a written form for each commissioner at this point?

Pate: We do not. Most of the comments that I have presented were in your staff report. I was reading from notes from the staff report.

Graves: Madame Chair

Anthes: Commissioner Graves

Graves: Is the inability to make any kind of a recommendation right now based on commercial design standards?

Pate: That is the only item that we feel this project does not meet.

Anthes: Normally we would hear public comment first, but in this case, I don't know that every member of the public has actually seen this project. I'm wondering what the commission would think about having an applicant presentation first even if it could be an abbreviated one, so that the members of the public can see the project before we ask them to comment on it.

Clark: Is everyone out in the hallway able to see and hear what goes on in here?

Anthes: Would that be available in the television out in the lobby? I would like to get consent on that. Does everybody think that's a good idea? Why don't I ask the applicant to come forward. Mr. Hennelly, is there a way to give us an abbreviated presentation knowing that you would have your full presentation after public comment to introduce the public to the project?

Hennelly: It would certainly be appropriate to maybe show some of the elevations. I don't know how in-depth we would want to get on the presentation from an architectural standpoint other than allowing the cameras to focus in on the elevations themselves so that everybody could see it.

Anthes: I think that would be very helpful.

Hennelly: I am Tom Hennelly with H2 Engineering representing the Barber Group. I've got Eddie Abeyta here with HKS Architects down in Dallas. In regards to the staff report, I would like to get some sort of clarification on if it is exclusively commercial design standards that you're not able to recommend in favor of the project on. I'm assuming that is specifically height. Is it exclusively height or?

Anthes: Mr. Hennelly, I believe that what Mr. Pate said was that staff is supportive of everything but the commercial design aspects of this project. He also referenced context, appearance, scale, materials, and so forth. I believe that I would take it as all of the listing of what we can evaluate for commercial design standards rather than heights.

Hennelly: I just want to get a better idea of what exactly that was.

Ostner: Madame Chair

Anthes: Commissioner Ostner

Ostner: As commercial design standards change or as they might change their design to satisfy staff, other things might also change.

Anthes: That's true.

- Ostner: So I think to state it clearly it sounds like staff has thoroughly evaluated except commercial design standards. We're not saying everything is somewhat approved except design standards.
- Anthes: Absolutely not. I have a lot of comments on site plan and other issues. That is the commissions' purview to review this project in its entirety. The question was directed to staff's recommendation.
- Pate: That is correct. Ours is merely a recommendation to this voting board.
- Ostner: I would suspect as this applicant might possibly change their design after tonight, other things might pop up that staff was in favor of tonight but might not be in favor of in the future. Other things can change when they change designs, is all I'm suggesting.
- Anthes: I guess I'd like one clarification while they're setting up. Mr. Pate, I know that you stated that neither the downtown code that has been forwarded to City Council by this body or the ordinance that I believe was left on the second reading can be used to evaluate in this project. However, I would like to ask for clarification on the downtown master plan vision document. I believe that that document was sent by the planning commission to City Council on August 9th, 2004. The City Council approved the resolution for the downtown master plan vision document on September 7th, 2004 with a unanimous vote. I know that this is not an ordinance, I know it's a guiding policy, such as our general plan and I believe that this document actually has some very specific recommendations and guidance for what we should look for as far as development in our downtown area. Can you elaborate on that?
- Pate: Sure. It is much like our general plan which also has some very specific guidance and ways to implement tools to implement those guiding policies, not all of those are followed, within the five year time frame with which we have a general plan update and what we're doing now is the city plan 2025. Much like that, it is a guiding tool essentially to look at and the city attorney can jump in here at any time, however I do not feel that the planning commission can vote on a project and base their recommendation based on guiding policies. We do make recommendations, for instance with connectivity, which is not an ordinance requirement it is a guiding policy. It would be extremely difficult to make an ordinance out of where streets should stub out for instance with subdivision in every place, so we utilize that as a guiding policy. However, it is very unlikely that we would recommend denial against a project unless there were for instance no connectivity and did not meet our block length and so, to clarify you are correct, City Council has adopted that as a policy tool. It is something that

we would look at, it has specific recommendations and ways to implement that. Obviously it has been forthcoming from this planning commission and forwarded on to the city council.

Anthes: Thank you, Mr. Pate. Are we ready?

Abeyta: Yes, my name is Eddie Abeyta, I'm with HKS Architects and if you don't mind I'm going to pull this mike off to walk around here. Let me just kind of give you a brief presentation with regards to where we were and where we are today. These images off to the left here represent the design that we proposed a couple of weeks ago. I do want to reiterate the fact that we were proposing a 15 story building at that time. These elevations obviously are different scales but they represent the same project. The second set of images are merely proposed design. The big difference between the two are one is the overall massing of the project and number two the number of floors of the project. What we're proposing today is a project that is on average 10 stories in height. Originally we were 225 foot in terms of building height and today we stand at 181 feet 6 inches, specifically and that's to the top of the mechanical space that sits on top of the building. A lot of the things that are similar with the projects are the fact that we have maintained a four-story and I want to emphasize a four-story podium on the base of the building. That's made up of on the ground floor public space and on the northeastern corner is the hotel lobby lounge area which is a high-energy public space, on the northwest corner we have the main restaurant for the project which is positioned on that corner to energize and interact with Dickson Street. Spanning across between the northwest and northeast corner is a strip of retail for shops. That is what we're saying retail opportunities.

Anthes: Can I interrupt you for just a second?

Abeyta: Sure.

Anthes: Is it going to be possible to bring those elevations up on the monitor for the audience to see up on the powerpoint? I guess you can see it there, but I'm wondering if you can also bring it up there for...

Myres: Madame Chair, I don't think the effort that you're making to make sure that the people in the hall can see all of this...

Anthes: I'm thinking about the people sitting right here on the benches... That helps, thank you. Sorry about that.

Abeyta: That street level interfacing with Dickson Street is public space associated with the entire project in terms of restaurant, bars and shops, retail

opportunities along the entirety of Dickson Street. On the second level, we have a component which is meeting space, banquet space. This facility occupies about 12,000 to a little over 13,000 square foot of meeting space that we're providing. The main banquet space at level 2, which is this location elevation, the main prefunction which serves the main banquet hall has been positioned on Dickson Street so that the 2nd story interfaces with the streetscape in terms of the public aspect. The two levels of the building directly above that are two levels of a parking garage that are disguised behind these little angled steel panels. Overall, the podium dimension from street level to the roof of that podium is a four-story component. Those are the similarities between the two projects. The big difference between the two projects is that we took the main tower which used to sit on the first scheme and pretty much eliminated that from the project in one respect in terms of its overall building height. We have taken what used to be five levels of hotel which used to sit on the four-story podium, so we have nine levels across the main section of the tower, we actually eliminated one level of hotel. Now we actually have four stories of hotel on top of the four-story podium so the majority of that mass is eight stories in total. We do have a small component which sits on the northeastern wing of the hotel which is a spa/fitness component. We still have that on top of this newly revised elevation. So that in total in terms of stories we have nine stories on this northeastern corner. As we move to the northwestern corner, we've introduced this sort of cylindrical element all the way from street level to the roof. The idea there is to really create a focal point for this project and really speak to the energy and the interface of the restaurant component with the street face and sort of allowing that energy the character of the building to extend vertically through the tower. At this northwest end of the building, this is where we have located our condominium units. We only have four stories of condo tower that sits on top of the hotel tower itself. Then we have punctuated the building at the top with a sky restaurant and bar. So we have opportunities for outdoor roofscape as well on top of this glass cylinder. We've maintained the idea of this outdoor pool deck, which we're calling the razor deck, for outdoor communal opportunities to interface with Dickson Street and look towards the campus and so forth. We've maintained the opportunities for introducing for activating the roof on top of the hotel like we originally had adjacent to the spa and fitness. Those overall are the big adjustments. We are still proposing materials that are commonly used throughout this region in terms of brick, concrete, and metal. If you look at what would be the west elevation, the Church Street Avenue elevation, it takes on a different character than what we had proposed originally. This is the original design in terms of the west elevation and as you can see the original concept was more of a vertical tower. This since the scale has been brought down the project has been spread out horizontally, we are introducing elements of brick which create

sort of gritted facades. The façade is pulled out to allow for the depth across the building elevations and to allow for balcony space across the zone of the hotel, balcony space across the zone for the condo, and as you can see the glass cylinder as it rises up on the corner of the building. But the majority of the material that actually clouds the condo we're talking about introducing a metal plating as a contrast to the brick. Then obviously we're still introducing exposed concrete balconies that would be coated with a coating, steel pipe rail, steel, and then kind of a halo element at the top of this cylindrical element at the corner in celebration of that rooftop outdoor dining experience. So that's it.

Anthes: Thank you. I think that's very useful. Before we start the public comment section, I would just ask everybody to keep your comments concise and directed to this project, and if somebody else has said something you want to say you can just refer to their comments rather than repeating them. That would help us all get through this meeting in one piece. Would any member of the public like to address large scale development 06-1997 for Divinity Hotels and Condos? Would you line up, sign in, and state your comments?

Nealy: My name is Dot Nealy and I'm a resident in Ward 1. I have submitted a letter for you all to read in its entirety. My comments should pertain specifically to the building.

(Inaudible)

Anthes: If somebody could vigilantly try to keep that door closed that would help us here a lot.

Nealy: Most Fayetteville residents are all for economic viability of our community and many share the view that it is possible to increase commercial and residential uses in city and historic areas of Fayetteville without constructing buildings of enormous scale. New height profile construction in excess of the proposed six stories in the downtown master plan would be more appropriately sited in closer proximity to the Fayetteville Square such as west of the Bank of Fayetteville and south of the EJ Ball Building. This would also revitalize the economy and the commerce in the square. Other sites that would be more amenable to these larger scaled buildings would be in the vicinity of the Northwest Arkansas Mall.

Anthes: I need you to talk about this particular project on this site, please.

Nealy: Yes, on this site. I would just ask that you consider the scale of this building and the nature of this building as being inappropriate for this site

as proposed and to consider other locations within downtown Fayetteville such as to the west of the Bank of Fayetteville and perhaps the Walton Arts Center parking lot. I ask that you proceed carefully in consideration of these projects. Our city should grow sensibly and practically not in haste due to pressure of developers pressing down projects approval before the downtown master plan with its recommended scale and height restrictions goes into effect. Thank you very much.

Anthes: Thank you, Ms. Nealy.

McGatey: Good evening, ladies and gentlemen, Madame Chair, my name is David McGatey. I'm the general manager of the Radisson Hotel. This evening I am speaking in that capacity and not any other I have in the city. I can give you 137 reasons why I support having a hotel brought into downtown. We currently have 235 rooms at the Radisson Hotel, Mountain Inn is looking in to bring in an additional possibly 200 reasons. We have the Town Center which has 14,000 square feet of meeting space, CCE which is attached to the Radisson has equal amount of space, the Radisson has 14,00 square feet. This particular Barber project is looking at coming in close to 13,000 square feet. With these additional hotel rooms and this space, following the proximity of downtown within walking distance, it would give us the opportunity to bring in larger group business that we have not been able to do simply based on the fact that we did not have ample hotel rooms for conventioners to come into town. With the project and included with the space that they have, in addition to the track facility, that would give us ample space with hotel rooms for bringing in large groups and conventions into the city that we have been losing out on because we have not had the space. The impact that it will have will be monumental. The attached space as well as all of the retail and restaurants, as well as the AP commission and 2% of the tax. Once again, you have 137 good reasons why I support this particular project. Thank you very much for your time.

Anthes: Thank you.

Kelly: Good evening. My name is Anne O'Leary Kelly and actually before I begin my statement, I'd like to set the record straight. It sounded like the gentlemen over here representing staff when he mentioned emails in support of this project I think I heard him correctly to say that I sent in an email in support and that my husband did as well.

Anthes: I think that he actually mentioned your names as against.

Kelly: Okay, great. Thank you very much, because in fact I am here tonight to strongly oppose this development. I don't think that it is at all compatible

either with the current character or spirit of Dickson Street or with the proposed master plan that so many people in this community have worked so hard on in the last few years. I think that we're in a very historic turning point as we make a decision about this project and I think it's a place we've been in before as we made decisions about how Fayetteville develops. We had to make a decision years ago about whether to have a sign ordinance and thankfully we had city leaders who recognized the importance of preserving the character of this city and they created such an ordinance. The same is true whether we face decisions about what to do about decaying old main or the crumbling Carnall Hall. We had folks here in town who recognized the importance of preserving those in order to preserve the character and spirit of our city. I think that the decision we're facing now is no less historic and no less important. If we allow ten-story modern tall buildings like this to go in on Dickson Street others will follow and I hope I sincerely fervently hope that we have the foresight not to let that happen and to preserve the unique character and spirit of Dickson Street. Thank you.

Anthes: Thank you very much, Mr. Williams.

Williams: I'm John Williams. I taught architecture here for 60 years. I practiced architecture during that time. I came to Fayetteville to establish a program in architecture. I was very pleased that I was able to do that in Fayetteville, Arkansas because it was a very beautiful town and I think that's special and it's unusual for more and more cities. It becomes more and more unusual for more cities in the United States. I'm here because one I'm concerned about this particular building in the context of Fayetteville. I believe it's completely out of scale. I would vote against it if I had the opportunity. I would like to take my time to explain that I think it is would be a mistake to build it. That's just not a personal opinion. That is the opinion that is based on long-time study of architecture, or city planning, of being aware of the special qualities of Fayetteville. I think as far as the aesthetics of it is concerned, that I think it is totally out of scale and I think it would be unfortunate to have it. I realize it has been lowered and a number of floors and I'm just talking about it. Regardless of how many floors, I think that if it's more than the usual floors around it that it would be a mistake. I also would like to talk just a little bit about the building. Architecture is described as a problem solving process, architectural design. One of the most serious problems that we have is energy conservation. We're at a point now where energy is a most serious problem. As I look at the elevations of these renderings the elevations shown on the renderings I'm again alarmed at the amount of glass. It seems to me a real lack of concern about heating the building in the winter time and especially cooling it in the summer time. I was curious about a south elevation because south elevations are fairly critical as far as

summer heat getting and the winter time is concerned. I didn't see that. I was concerned about a west elevation which has lots of glass. It would increase the amount of heat required by energy to cool this building. The north elevation is also a point of glass. I just think I would really like to be a nice person but I just think that this is a serious mistake as far as the building is concerned, the design of the building, and the location of the building in Fayetteville. Thank you.

(Applause)

Anthes: I need you to keep that applause down please. If you want to react to an item I'd ask you to go outside and watch it on the monitors. Mr. Young.

Young: I'm Cyrus Young. A few weeks ago I spoke to the planning commission about the Underwood development. I gave each of you a copy of my comments. I don't know whether you read them or not. I am pleased to hear one of the commissioners mention the plan for the area that was adopted prior to this development being submitted for approval. The Arkansas Supreme Court not only talks about ordinances and laws, they also talk about the plan for the area. Nor does the city have to create a zoning ordinance or a landing plan or adopt plan use districts or commercial districts. But once it has done so it must follow the ordinance until it is repealed or altered. The issue of compatibility again comes up. All of these case laws that I've cited about the Underwood building as far as I know still apply to this. I don't think anything has been reversed since then.

Anthes: Mr. Young, if you would just address this building.

Young: Life Concepts vs. Harden the court addressed the challenge to the term compatibility and found that it was not vague because it had a plain and ordinary meaning that could be understood by reference to a dictionary. We agreed that the term has a well-defined meaning, it is not so vague as to leave an applicant guessing as to its import or meaning. Moreover, there is no indication that the applicant was laboring under any misconception on what the ordinance required in order to obtain a permit. We conclude that the appellant has not established the ordinance as unconstitutional in Arkansas. It is constitutional to have compatibility. This development does not fit the Dickson Street area and does not meet the goals and requirements as pertains to the historic character as is stated in Fayetteville's ordinances and policies which were requested and adopted to citizens of Fayetteville prior to this development being proposed. This proposed ten-story structure can never be considered to be compatible with the surrounding area which contains one and two storied buildings, no matter how much you may fidget with the design. I ask you to turn

down this requested development for failure to comply with existing ordinances and planning policies. By rejecting this development, you will be preserving Fayetteville's identity and character as consistently requested by the citizens of Fayetteville. Thank you.

Anthes: Thank you very much. Mr. Kinion.

Kinion: I'm Mark Kinion. I live five blocks north of the proposed development. I actually was very open-minded initially about this. I was in a meeting and we talked a little bit about scale and the scale of the building. A simple graph was handed to me looking at scale at that time looking at a fifteen-story compared to a ten-story and I'd like to leave this with Madame Chairman because I think it caught my attention on how out of scale this is with the area on Dickson Street. Looking at this, I'm sorry that I haven't had time to look at the overall design. I think it was rushed, which has bothered me personally. It is a really cool building. I just don't think that it should be at this location. I don't think that it is in scale with the neighborhood in which I live, so I will leave this.

Anthes: If you would give it to staff, please.

Chaney: Dr. Don Chaney, resident of Ward 3 and a business owner. Basically the gentlemen of the Radisson cleared up what I needed to say about that. On just a personal level, I see that if we do not evolve, if we just stagnate and keep the cute little town, the picturesque town, we're never going to grow. It's not the economy, or anything like that, we're going to turn into Eureka Springs West. That's just how it's going to be. I'm firmly for this project, we should always look for growth. I think it does come with the spirit of the master plan which was pedestrian traffic, parking garages, trees, everything like that, so I'm firmly for this.

Anthes: Thank you.

Brown: Madame Chair, Planning Commission members, my name is Tom Brown. My property is located at 339 N. Gregg. I opposed the project that is presented. It is not in scale or character with Dickson Street as depicted in the downtown master plan. I have a written copy of some statements I want to make, and I'll leave that for the Chair. First of all, the city is expeditiously but carefully working through the process of developing a new downtown zoning ordinance that addresses these this issue brought forth, many issues brought forth, both by the general public and by developers during the process of the creation of the downtown master plan. The new downtown zoning ordinance is going to be a critical tool for the successful implementation of the downtown master plan. Until it is adopted, we have the downtown master plan map and its documentation to

help guide the developers and the city. That is available to everyone. It has been out for over a year. The Divinity building developer has apparently elected to ignore the citizens' current sentiments regarding an acceptable height of new developments along Dickson. In fact, they're using cries of potentially economic loss to the city and threat of claiming unfair treatment to twist the arm of the city to allow them to maximize their profit at the expense of the successful implementation of the master downtown master plan.

Anthes: Please talk to the development rather than the economic aspects of it, if you would.

Brown: The downtown master plan is worth fighting for and we are in fact in favor of the downtown master plan, even today. The planning commission, the city council, the mayor, the city attorney need to realize that the citizens of Fayetteville expect them to stand up to the economic self interest of developers and support the successful implementation of the downtown master plan. Even if with self-centered legal action. If you do not stand up to the selfishness...

Anthes: Mr. Brown, can you please talk about this particular building on this particular site.

Brown: Well, that's what I am doing. It's very specific.

Anthes: Well you're talking about economic aspects and the planning commission cannot evaluate a project based on economic impact.

Brown: The approval of the nine-story Lofts development at the other end of Dickson should not be considered a precedent, but only an unfortunate non-conformity. The planning commission would be setting a dangerous precedent if they cave in to the development pressure to recommend a second development that exceeds the six-story height limit that is being considered under the new downtown zoning ordinance. Remember one unfortunate approval does not make a precedent, but two might. You must hold firm in your support of the downtown master plan and say no to ten or even a seven-story development project. I just have one question that I was hoping you might pose to the developer at some point during this process, and that is why did you not render the building showing the surrounding existing buildings? That might be helpful for the planning commission in making a judgment about scale and the appropriateness. Thank you.

Anthes: Thank you, Mr. Brown. If you would leave your comments with Mr. Pate, please, thank you.

Davis: Good evening, my name is Lane Davis. I think the gentleman from the Radisson and also the doctor who spoke earlier were very succinct in how they described Fayetteville and the potential growth. I think they've done a very good job in modifying the building and bringing it into a very favorable size as far as the ten-story and I think it will work very well with Downtown Fayetteville and also with the growth in Downtown Fayetteville. I am in commercial real estate in Rogers and as you all know what is going on in Rogers I just think it would be advantageous to Dickson the Dickson Street area and also to Fayetteville and I think it's going to be something that continues to add to Fayetteville and to the growth of Fayetteville. I do want to remind you of the nine-story building that was approved. I think that this will obviously fit into something that is going to benefit Downtown Fayetteville. Thank you.

Anthes: Thanks, Ms Davis.

Raglin: My name is Jim Raglin.

Anthes: If I could get you to sign in while you're talking.

Raglin: Oh, you sure can.

Anthes: Thanks.

Raglin: I came to Fayetteville in 1986 and over time Dickson Street has changed tremendously. The way I see it, and most people see it, it's gotten better if you remember in 1986. I live on Watson Street which is in close proximity. I view this as a welcome addition to the street of Dickson, not only to Dickson but to the business owners, to the citizens, and the city. This is something I strongly hope goes through, and I just want to share my opinion.

Nugen: Hello, my name is Ronnie Nugen, and my father owns a restaurant on Dickson Street called Mom's Kitchen which I hope to see you all there. I know that's not the site we're talking about, but... With that said, I have a vested interest in this building and the project. I also live on Church Street, 219 right in front of Ozark. I have been unfortunate to look at this building from my window, but that said I also am in support of this building. Growth is inevitable on Dickson Street area and in Fayetteville, the historic community that we like to talk about, we did develop the character of this community. It does not have to be stopped and halted with a two-story building. These buildings do not mean loss of integrity or character or diversity of the region. One of the issues, again, is increased diversity on Dickson Street and within the Fayetteville area. This building helps us

to increase diversity and attract new business and other projects to the area. Now, the hard thing is about compatibility. I understand the Supreme Court has outlined the interpretation on compatibility. The question presented to you is what is compatible with the other buildings in this area. The future dictates that it will be inevitable that buildings like this area going to be built, they are going to come. Whether or not we consider an ordinance that hasn't been voted on with a six-story limit is not the question. The question is are there buildings around the area that are compatible with this building, such as the Underwood building, the Marriott Renaissance. Those buildings create an environment that makes this building compatible with the Dickson Street area. Therefore, if you look at the overall context not one square block, or not one square corner of Dickson Street, if you look at the whole Fayetteville downtown area as it grows and progresses you can see that this building will not be out of place and context with the buildings that are surrounding it. This building is not by itself in the context of one block. Additionally, when you are showing elevation you don't want to show all the buildings around it. You want the elevation to be by itself alone. Therefore, you can see the building on its own merits and not what it is around it. Additionally, we're talking about the other characteristics not just the elevation but the other characteristics of this building that I feel a lot of people have ignored. What does this building look like compared to other buildings? First of all, as we all know, Dickson Street is very eclectic, you have domes which is different than other buildings, you have the Underwood building which is different from the Dickson Street theater and other buildings like that. This building only adds additional diversity and retail to this area that brings in new pedestrians and new styles in development. When you're thinking about this, you have to think about the future and not just the historic matters or the past, you have to think about what is going to occur in the future in retail and new development is only going to bring new additions and while changes are scary, at the same time being like other cities that with big buildings haven't lost their integrity, for example Seattle, San Francisco, New York, lots of character. As you look at that, this city can grow and develop its history and its character for the future. Thus I feel that I am in support of this project. Thank you very much.

Anthes: Thank you. Please, no applause. Before the next gentleman speaks, could I ask you guys to turn off the PowerPoint now? Thank you. Just a black screen is fine if you could just turn off the projector.

Hines: Madame Chairwoman, I'm Steven Hines. I live here in Fayetteville. I'm president of Haskell Strategic Communications which offices in the Bordino's building on Dickson Street. If the Divinity Hotel is built, I will be able to see the building from our office on a daily basis. I am here to strongly support the project, and I'll tell you a couple of reasons why.

One, I think that many people in Fayetteville, not everybody, but many people have realized that the Underwood Lofts were approved just very recently and that would be on the other end of the street. I do think that that is a very important factor to consider. Also, we know that on a daily basis our city is losing much sales tax money and property tax money to the neighboring counties.

Anthes: Again, no economic discussion here, please.

Hines: I do also think that there are many people who are interested in having this type of facility within our city. I think it would attract more visitors to our city. I think that if you are looking for that type of hotel or that type of restaurant, and I do think that would be a good thing for Fayetteville. I do think that the Barber group has been able to work with the city. They have, to my surprise, been able to mark five stories off of it and still make what sounds like a (inaudible) project. I think that's impressive that they have worked with the city and the mayor on that. I do think that is something that should be considered. I urge the planning commission to strongly support the project. Thank you.

Anthes: Thank you, Mr. Hines. Mr. Ramsey.

Ramsey: I'm the chairperson, I'm Bill Ramsey, I'm the president and CEO of the Fayetteville Chamber of Commerce. I promise you that I will not be here to talk about economics of the project. I would like to commend the Barber group for listening to some of the concerns of the Fayetteville constituency, the Fayetteville citizens, and coming back with a dramatically improved, dramatically different plan in going from fifteen stories to ten. That is in response to some of the concerns that they have heard from the citizens. I think they should be commended for that, and I haven't heard a lot of praise for that tonight. I did hear you say that economics is not compatible wasn't your true motive. I think what is your motive, however, is to look at the requirements that we normally have in place at the time the application was made are still in place. I think that is on reason I commend this group. You know they could have stuck with the original fifteen-story plan and met all the requirements but they chose to do the right thing and address some of your concerns, and again I'd like to commend them for that. I told you that I'm the president and CEO of the Chamber of Commerce. I just want to read our mission statement to you. The Fayetteville Chamber of Commerce is a duly organized body of Fayetteville citizens whose mission states: our mission is to serve as a leader and for membership by promoting a strong business plan of Fayetteville and facilitating positive interaction that result in continued economic development and quality of life. That is as close as I'm going to get to any economics. I can tell you folks the eyes of Northwest Arkansas

are on you. I think this is a turning point for the future of Fayetteville, Arkansas. I think the decision that is made not only here tonight but whatever the final decision is going to have a lot to say about the future of Fayetteville and our quality of life. This project is we currently I'm going to talk a little bit about competition because we don't compete. We can't attract...

Anthes: Mr. Ramsey, I really need you to talk about the development, the building itself, how it sits on the site, commercial design standards, access, traffic, all the things that we can look at here.

Ramsey: Thank you for reminding me of something I said I wasn't going to do. I just urge you to approve this. It meets all the requirements, the current requirements, uniform development. It meets the approval. It meets all those requirements, and we just appreciate a good vote and thank you for your time.

Anthes: Thank you very much.

Kvamme: Hello, my name is Joanne Kvamme. I sent letters to people but some of them didn't come by. I'm a very visual person and I have a question very similar to that one of the other people asked and its why do we never see a picture of this building next to anything else? I went down Dickson Street and I'm not an architect and that's very obvious but what I did do is I have one block for each height. This is Dickson Street and you have to remember that it actually turns like this so this building would be actually quite a bit bigger than it looks because it would be remember that we have the hillside ordinance on the edge of the hill, things really stick out, it's right on the edge. When you put this building in, this is the ten-story building compared to the rest. I think it's a very good visual compared to what we've seen.

Anthes: Please. Thank you.

Kvamme: Oh, I'm sorry.

Anthes: No, not you. (Inaudible)

Kvamme: The other comment I have is the city of Fayetteville has been going in a great direction. We have brought outside people in to help guide us into the future. We don't want to stagnate as a lot of people say. Just because we don't see this as progress doesn't mean that we don't want to attract business, we don't want to have progress. But we want to control our progress. We have a master plan that is not complete, but there's not a person in this room that doesn't know exactly what is in it. I find it odd

that the developer who wants to work in our community wouldn't embrace what our community has said we want for our future and work with that rather than just coming in and saying no you need to be Dallas, I'm sorry. Why not embrace what we want for our community and work with us and that's what I think we need. I just think that growth does need to be customized to us. I don't think there's a person in here that wants no growth but I don't think this is. This is not appropriate. Thank you.

Anthes: Thank you very much.

Allen, Nate: Good evening. You should have received a list about 400 either emailed or consent of people to put their names on a list about concern about preserving Dickson Street by preserving the view to Old Main. I'm here tonight strictly as a husband pitch-hitting for his wife. My wife Nancy was too sick to come tonight, but she did rally today and was able to use the phone. That's why I'm here. The developers talked of Dickson Street being the Fayetteville's 6th Street of Austin and we quite agree. Today Nancy called Austin and she talked to a Linda Corpey who is in the staff office and George Zackalack who is on the city planning staff of Austin. It turned out that Linda is from Wynne and went to school at the UA, so it turned out she was both familiar with Dickson Street and 6th Street. She mentioned buildings on 6th street must abide by a view corridor for the state capital building, and we'd certainly suggest before it's too late a similar strategy for buildings on Dickson Street and elsewhere in regards to Old Main. She also said the buildings that have concerns deviating from surroundings and compatibility on 6th Street are made conditional uses and are evaluated on a case by case basis. We also would like to see that implemented. In light of the pending but not approved downtown master plan we would like to see a moratorium placed on building on Dickson Street until either the master plan is approved...

Anthes: Mr. Allen, that's a City Council action.

Allen: That's right and I'll take that back. We do think that it's the citizens the type of downtown master plan with six-stories on one hand and then waiving through a ten-story building like a frantic third base coach in the 9th and it's about to rain. My view on the matter is a no-brainer it should be zapped on the spot, I think in all fairness to both sides such a mammoth project should be viewed deliberately and not in a rush as to why we were ruled before the rule begins. Buildings grandfathered in before the new ordinance ought to be truly grandfathers and not baby Hueys on a crash diet just to be conceived. Thank you.

Anthes: Thank you, Mr. Allen.

Sutter: I'm William Sutter. I guarantee you I won't be that entertaining. I grew up in Fayetteville. I had the marked privilege of growing up in Fayetteville in the 1940s and 50s. At that time, the square had one block of it two hotels, the Washington Hotel on the southwest corner and the Mountain Inn. Dickson Street had about 5 or 6 hotels, most of them were limited to one or two stories about the pool hall or grocery store here on Dickson Street. A big part of our city was the ability for people to stay with us. I think it's interesting that no one's mentioned that Hillcrest Towers is at least thirty years old and the last time I counted the floors it had eleven floors and that's about three blocks of where this building is. I also read the paper that eighteen floors may be going into the Renaissance Marriott. It looks to me like we need to accept the fact that the square and Dickson Street or downtown Fayetteville, or old town, or uptown, Dickson Street used to be downtown and the square was uptown for most of you that are as old as I am. One of the questions, John Q. Hammond, a nationwide renowned builder and owner of hotels out of Springfield, MO has built three hotels in Northwest Arkansas and has planned...

Anthes: Mr. Sutter, please talk to this project, if you would.

Sutter: This has to do with this project and why Mr. Hammond hadn't built one here. I thought it was pertinent, but I apologize for putting that in there anyway. I've lived all over the world, and in several large U.S. cities. The ones that have hotels integrated into their central areas are the most interesting and the most successful ones in my opinion. I fear that if Dickson Street doesn't grow in the future it might end up looking a lot like Springdale. I rest my case. Please support this project. It's noteworthy. The building is lovely and special. Thank you.

Anthes: Thank you very much.

Davison: Good evening. Thank you for all being here, I appreciate the new faces that have taken on this challenge and I appreciate you all listening to all of us tonight. My name is Sharon Davison. I am here to say please vote against this. I am still in a wow state. Staff recommends denial. Wow. I'm still shocked, personally, but I'm very happy and I'd like you all when you do consider that. We all know how staff sometimes says well they've met all these requirements we have to there have been all kinds, but this is one of the few strong denials that I've heard in coming for quite a few years to these meetings. So, thank you very much, staff for looking out for our interest as individual citizens, individual property owners with no vested personal financial business. I think most of what I've heard tonight on the pros are pro business financial folks. Most of us are really appreciative that the staff is recommending denial. I think that this is true a turning point for us, not just on the size but scope. There are certain things that

bother me with the adjectives used in this project, in boutique. I think that we go to France and find little boutique hotels there. They've little two and three storied buildings. I see a huge block of concrete. Personally, I've been to East Berlin where buildings go for blocks. This is more so what this looks to me instead of small and boutiquesque. I'm concerned with the special accommodations that have been given...

Anthes: Ms Davison, let's talk about the project itself rather than the political process, if you would.

Davison: Okay. Well, I didn't know we couldn't talk about the politics because the politics have forced us all here tonight to accommodate them and I knew we couldn't talk about the economics.

Anthes: The planning commission has voted to put it on the agenda tonight. They made the application, it was put on the agenda. We have a public hearing. Please, lets talk about the building.

Davison: That's it. It's part of the problem, rushing these things like this. We haven't even, let's look at the bigger part of parking. When I look at this, it's not going to have enough parking for its traffic. We're in a serious crunch here in Fayetteville, and I think part of the hidden secret of the parking problem is our caverns. I know there are caverns under EJ Ball parking lot, I think that's been part of the problem, the weight. I know there's a cavern under the back corner of the Hilton that we have to be concerned about, excuse me, it's the Radisson now. I would want to be concerned also that we haven't thoroughly checked our geological aspect of this because that's a little hush-hush secret around here that that's a big problem. You talk parking decks and weight and that's a big problem. Hillcrest Towers has been brought in as comparison. With that defective motor, we know that building is going to be coming down in the not too far future as a safety hazard. That's a little secret, too. Here's a big problem I have for this building at this time and developers expecting accommodation asking for waivers variances and all. It's speculation. It is speculation. This building for these speculative purposes is not compatible with the neighborhood. When other folks want to bring in something that might be built, something that might be passed, I think you are given the tools here to say no to this because of incompatibility with the neighborhood. I just loved the Lego demonstration (by Joanne Kvamme) because I think that showed it so clearly. Please, I appreciate your time. Don't allow yourselves to be forced to do anything. Our city staff have said they recommend denial. You have lots of folks, individuals, residents, begging you to deny it. Please deny this. Thank you.

Anthes: Thank you. Mr. Fennel.

Fennel: Planning Commission. Joe Fennel from Bordino's down on Dickson Street. I've been on Dickson Street a while and I've seen it develop, thank God. I'm a business owner down there, and a property owner, and I thank God that we're making progress. We need to make additional progress. We need to make a lot of progress if we're going to stay competitive. I've been down there since 1980 and I think that everyone in this room can say that Dickson Street is a lot better place than it was in 1980. I opened Jose's in 1980 and had three murders. One body was laying outside my back door. Compared to where we are today than when I opened my taco shack down there, we've come a long way. Thank God that we had the foresight to put the Wal-Mart center down there. That is the initial thing that saved Dickson Street. Other than that, Dickson Street would have been gone, would have been gone a long time ago. When you make that kind of commitment to an area then good things are going to happen, so I am in favor of this project. Do I like everything, the design here? I'm not going to say that I like it. Do I like the project? I think the project is fantastic. I think everybody is hung up on the height issue. The lady before me mentioned the parking. If you look at downtown Fayetteville, what's ugly about downtown Fayetteville? Those ugly parking lots out there. We would all like to correct that. Do we want to look like downtown Tulsa? It costs money to build parking decks. These developers here have come forward now with the project they are going to provide parking. There have been a whole lot of parking who have come to Dickson Street who haven't provided any parking. That's why we've got a parking problem down there. So, if you look at their project and you take out the 380 parking spaces then you can shrink this project three stories. So if that makes the project better then take the parking out of it and let these guys develop their project like we let a lot of other developers on Dickson Street and not provide parking. A parking arrangement was done for 10-12 years down there and has provided the parking crunch we have now. These guys are willing to foot the bill on a parking lot, on a parking deck 380 spaces. We haven't had a developer in Fayetteville that wanted to spend that kind of money. I commend them on the fact that they're wanting to build a responsible project and they want to do things that are right. So if we're hung up on the height issue then let them do away with the parking situation. I don't know what the parking garage costs. Someone told me it costs anywhere between \$12,000-\$20,000 in space. They could save themselves a whole lot of money. They could handle that by buying the rest of that block and knocking down all the houses and putting up one big old asphalt parking lot. Is that what we want in Fayetteville, or do we want to take a parking garage and hide it in a nice building so that we don't have to look at parking? We've got a parking problem in downtown Fayetteville. If we don't address parking as we develop, then we're not going to make it. I'm just here to tell you. I will be

back because we've got a parking lot issue to deal with with UBC. If we don't do that then the Arts Center is going to die, and Fayetteville is going to die. I've got customers that walk to my businesses every day. The reason they don't come to Dickson Street and spend money is because they don't want to fight the parking problem. So I do commend these guys for spending the money and incorporating parking into their project, and I appreciate it. So, that's my two cents worth.

Adair: Good evening, Commissioners. My name is Brittany Adair. I'm a business owner on Dickson Street, and I'm also a Fayetteville resident. I just wanted to pass on what was said a second about the parking. I'm for this project 100%. I think it will be a beautiful asset to Dickson Street. I think that it is located perfectly with bringing in the Dickson Street and making the turn onto the square. The downtown master plan, one of the things that they really wanted to do is try to put traffic in all these areas. I really think that it will help with that a whole lot, and of course the economic that we can't really talk about. I think that it's a very lovely building and I commend these gentlemen for bringing this to our area and for funding this, for sure. Thank you very much.

Anthes: Thank you, Ms Adair.

Bowman: My name is Scott Bowman. I'm a business owner, a multiple property owner. Off Dickson Street, I own Theo's Restaurant. First thing, real estate speculation, you speculate on something that's actually I came here in 1990 to go to college and...

Anthes: Let's not begin the definitions about...

Bowman: No, no. The Walton Arts Center, if someone had told me in 1990 that was going to go up there, I would have called them crazy. That was a visionary project. There's no reason that another 15 years this cannot be considered the same thing. It meets the demand. It's not speculation. We meet a demand here, condos, mixed-use buildings, that's the reason they're selling out right now. It does meet a demand. On parking, I can't tell you how much I pay for valet parking to go through that process to get my customers in there. My customers from North and all that, these guys have done that. They've handled that in all the projects. One thing I don't want to see happen with, we've said that it would promote diversity and the eclectic nature of Dickson Street, the entertainment district, why not a little modern architecture? I don't see how that doesn't fit into the definition of what we're trying to promote down there. I'd hate to see this turn into a city where our downtown mid-town areas are not taken not left to see their full potential. We have a city like Atlanta, Georgia was a long

time ago with a series of strip malls. We look like our neighboring cities up north. I'm in favor of this project. Thank you.

Anthes: Thank you, Mr. Bowman.

Mitchell: Hi. My name is Jim Mitchell. I live at 224 West Watson. I'm not sure who else here has referenced this. I can sit on my front porch and see this property. I got home this evening, and I was not coming down here because I get really tired of these civic meetings. But after Cox got my cable back on and they were broadcasting you, I tuned in and Mr. Williams was speaking so I decided I was going to come down here. So, first, I want to thank you all for the time you've given this, and I really want to thank you Commissioner for running a very good meeting. That's pretty important at this point. I do not have a problem as a private citizen with the height of the building which I would be staring at. The neighbors asked if it was going to block the sun and kill our grass. I think what the issue is for me and what I'm hearing and again just my personal opinion is is that if the architectural façade of the building reflected Dickson Street, reflected Old Main, reflected the character of downtown area, I think a lot of these issues might have gone away very early on. At the same time, I have to point out I'm trying to play both sides of the card, I guess we're all here now, but if I had my way, the square would not have the east and northeast and north side of the square developed as it is. Those are probably three of the ugliest buildings I've ever seen in my lifetime. So, if people were worried about architectural vision, maybe the developers could look at reconfiguring this in light of Mr. William's comments about economy and energy and so forth and look at a design that would fit in with the architectural history of the area with regard to the rest of the height of it. Thank you very much.

Anthes: Good evening.

Dortch: Hello, I'm John Dortch. I've lived in Fayetteville since 1981 and I'm a business owner of the Gypsy down on Dickson Street. I'd like to address a few things real quick. The parking on this project I like the parking it provides. As far as the overall height of it, I did see at one time the overall height of this building compared to other buildings such as Old Main and maybe the EJ Ball building and it seems to be compatible and even lower than those buildings so it's not like it's projecting out like other buildings here in town with the way that they've dropped the size down. One thing that might help is having a hotel on Dickson Street, with all the bars, with having a hotel might help with all of the drinking and driving situation. I'm in support of a local family, the Barbers have lived here in the community, in investing like this and taking the risk. I hope they continue to be receptive to requests. Thank you.

Razinsky: Hello. My name is Wilson Razinsky and I'm on the faculty of the department of architecture at the university. I'm here to support the project wholeheartedly. All the reasons that have been stated are very valid. I wanted to make a few comments about tall buildings and the significance they plan in cities in our country. The tall buildings are an American art form because it embodies optimism. Optimism lies at the heart of building tall. Tall buildings were born on the soil of American ingenuity. A lot of people don't know that. The idea of tall buildings in the early life of American cities is rooted in the heart of American opportunity and fed by the hard work and the vision of those who choose to take the risk. Tall buildings look to the horizon of the future as the only horizon of opportunity and growth. Fundamentally, tall buildings in America are an expression of the undeniably American desire to push this culture and in this case Fayetteville forward. We can be clouded by nostalgia for a kind of environment that may have once existed on Dickson Street. The bottom line is the biggest detriment to the character of Fayetteville isn't a 15-story building on Dickson Street. It's the thousands of acres that are being devoted to single-family housing. Thank you.

Bennett: Hello, my name is Clinton Bennett. I'm a citizen of Fayetteville and was a participant in the downtown master plan and the 2025 plan. The message I took away from that was to make our downtown viable we need to increase density and some creative development. I think that is what this project provided. It was very exciting to leave those sessions and see the potential for what could be done in the downtown. I feel like it's taking place. The parking is built it, but it's a fantastic feature. You're got retail, residences, and hotels, which all provide a needed service. I think it's a great project and in line with what the city has been trying to make up in the downtown area. Thank you.

Anthes: Thank you.

Griffith: Hello, my name is Matt Griffith. I'm not originally from Fayetteville, though I do live at 422 East Lafayette, so very close to where this project would be taking place. I also work on the square. I choose to work on the square because I love working downtown and I love the number of people that are in the downtown already and I hope to see the downtown continue to become a vibrant place to work and live. It's the place I'd like to live in. I've come tonight to offer an ambivalent opinion about the building. Certainly the arguments against the height of the building, the arguments against its position on Dickson Street, should be taken seriously and those are arguments that have been well articulated, and they're arguments that I have some sympathy with. But there are two things about the project that I think really in the end bring it to a point of barely supporting it.

Everybody else has been so extreme, but I'm ambivalent. I think that at a point earlier I think it was Mr. Williams that made the point that environmentally it's not a particularly sensitive project. I think that one of the arguments he talked about with the elevations and the light and heat gain, one other way to slice that is in comparison to what is happening in the western parts of Fayetteville and in comparison to what is happening along Joyce Blvd. where things seem to be approved kind of whenever they come up. This is an incredibly environmentally sensitive building because it is resting in the corner of the city next to existing infrastructure. It is required of the city to build more infrastructure it is not requiring a tax payer moving downtown to subsidize the infrastructure where there is much less dense development. So I think environmentally to a much greater extent than with the facades and heat gain with solar energy the project is in many ways very environmentally sensitive. The other thing that those of you who know me really gets my back up is when we start talking about modern buildings. For me it is very difficult to construct a seamless character on Dickson Street when along Dickson Street you have several art deco buildings, you have a modern building, you have an international style post office, you have the train station, you have the American mainstream building. It's a very eclectic mix of buildings. You also have parking lots and several monstrous 45 degree angles. We have an incredible mix of buildings on Dickson Street. That's probably what I love about Dickson Street. What I find really interesting is all the styles most of which people are willing to latch onto and have a great deal of sentiment for is if they were relatively short lived styles in terms of when they were built. They were at their time authentic representations of the era from which they grew out of. After that period of time was over, they have only been poorly imitated and have often looked somewhat inappropriate. I would ask people to think what is appropriate for our time? Is it not okay to have a modern building along Dickson Street, a building that looks like it was built sometime in the last twenty years, along Dickson Street? I think that people certainly in future generations might get as much enjoyment from learning about our time as we get from learning about the times previously that are so nicely represented along Dickson Street. So let me add I have my reservations with this rendering here that shows people on the street. I would ask that you all consider approving the project. Thank you.

Anthes: Thank you, Mr. Griffith.

Durham: I can't really write and talk at the same time. Hi, my name is Julie Durham and I live at 230 West Meadow. I'm about four blocks from the development that is in question this evening. I just wanted to voice my opposition to this project. There's been a lot of talk about the master plan and what's been passed through the planning commission and that's not

law yet. I do feel that that embodies the vision of the people, myself included, that participated in that process. A lot of the issues that are being brought up by others this evening about the need for development, need for parking, need for development on Dickson Street, those things are addressed in the master plan that is being held before the city council. Those folks seem to point to this building and say this is the answer to those problems and I tend to disagree to that approach saying that is why we need this particular building on Dickson Street. I think development can be achieved without having to have a ten-story building on such a large footprint. I think the master plan embodies those types of developments. I certainly don't want downtown Fayetteville to become another Rogers. I look at the development up there. That's a unique development. As far as I'm concerned they can have it. I think Fayetteville's charm is what we see on Dickson Street and enhancing that the best that we can to improve our development downtown. I really do feel that the form and the height of this building do not meet the design developments in the code regarding compatibility with the surrounding area regarding its ability to enhance Fayetteville's appearance and preserving the scenic resources that we have and I consider Dickson Street a scenic resource in Fayetteville. Thank you.

Crawford: Good evening. My name is Neil Crawford. I'm the owner of Jose's on Dickson Street. (inaudible) I've been on Dickson Street for 18 years and I've seen a lot of development. I'll just give you a brief history. I'll be brief because I'm sure you're tired of hearing the same old squabble. I watched the Walton Arts Center be built, I watched the Brew Pub be built, Jose's be remodeled, I watched the Three Sisters be built, and I've seen the Underwood Plaza be approved. My concern is that these guys are coming in and are trying to be pioneers of the street, to really push it to the next level so they're under such strict scrutiny that I think surpasses what has happened in the past. We can argue that it is apart to the master plan but the fact of the matter is that the master plan has not been integrated yet. It wasn't integrated when these other developments went up and should not apply to this one. Another piece of the puzzle that I think is very important to this is that they picked the location of the corner of Block Street. To be on Dickson Street so long it is extremely hard to tie in aesthetically downtown Dickson Street and downtown Fayetteville. We know that Block Street has been a challenge to develop all the way into the square. It's going to take years. I may not even be alive when that happens. I know one thing and that is that these guys are willing to put the cornerstone of that happening on the corner of Block Street. I'm extremely excited that they're willing to make a forthright effort, take the challenge, and make the investment to make this happen at a quicker pace than maybe some maybe than the business owners on Dickson Street. Lastly, I'd like to say that looking at this building I've not seen these plans up

until this evening, Dickson Street it is the arts and entertainment district, it was formed that way, it's about music, arts, music, fun, food, festive. These guys could not build a better building that signifies that to be a key way to that street. They're taking a high end look, looking into our street to know not to be low end anymore. I commend them for what they've submitted. I wish that when you decide to approve this that you really take into consideration the fact that these people have bent over backwards to invest a significant amount in our community. Thank you very much.

Anderson: My name is James Anderson. This building is about going up, it's about growth in the community and growth in Fayetteville. I've only lived here in the district for about four years, previously I spent most of my time in Missouri and the Midwest. You grow up, I grew up, cities grow up, they've got to go up because the land is expensive. You build a building to make the performer work. You build it so that the owner can get a profit margin.

Anthes: Can you please talk about the building, the physical form of the building and not the economics.

Anderson: Yes, ma'am. The physical form of the building will be just like any other building in any other city. It goes and it goes and it goes, eight-stories, nine-stories, ten-stories, twelve-stories, twenty-stories, thirty-stories. Whoever thought the Hyatt Regency in Kansas City would be forty stories? Back then in the 30s, 40s, and 50s it was three and four, in the 70s and 80s it was seven, eight, and nine, in the 90s it was twenty and thirty, and here we are thirty, forty, and fifty. If we want to be stagnant community, then we won't go up, and stay small. John Q. Hammond is 86 years old. He's still going up, goes up every day. Height is a requirement he has because land costs more. I am the national accountant for John Q and I do all the work for him in the country. He specifically looks for downtown markets to build wonderful hotels. That is what the Barber Group has done here. During the time I've been in the city of Fayetteville, I've seen a non-growth. Our sisters Rogers and Bentonville have. We need to grow. We need to have a new downtown hotel and no better place than Dickson Street, the heart of downtown, to have it. I ask you that you support this. Thank you.

Brosh: Good evening. My name is Patrick Brosh. I want to stick my comments, stick closely to what we're talking about the physical (inaudible). I do want in reference to say that in 1966-1970 I was a resident on Dickson Street. I spent a lot of time on Dickson Street. I also have a house presently on Rolston and I've purchased in the Legacy Building where I will move in at the first of the year. I particularly like this building. I appreciate the Barber Group investment. I think that it adds character and I

think that it will continue with the look that we need on Dickson Street.
Thank you very much.

Blackwood: Good evening. I'm Mark Blackwood. I'm a property owner on both Dickson Street and Church Street. I'm here to register my support for this project and ask that you evaluate it on the height standards that exist today rather than something that we want in the future. Thank you.

Critendon: I haven't done this since I was a senior in high school so this shows how I feel about this. I'm a homemaker. My name is Marsh Critendon. I drive down these streets at least three times a week. Ever since I heard about this project, I tried to visualize what a building of this magnitude would look like on a two-acre lot. Okay. I thought, well it's going to be shadier. We're not going to be able to see the sunlight, but that will be okay. So I said to a friend of mine, what do you think about it? She and her husband said well look up there at the high rise, it's ten or eleven stories and it's okay. So I went up and looked at the high-rise and I said you know it is about the same height. I went around the high-rise again and said what is it that bothers me about the little piece of property compared to the high-rise? It's because the high-rise is on the center of the city block instead of it being on a two-acre lot as this building would be. That bothers me. I couldn't tell from where I was standing over in the corner where are these 380 cars going to be pulling out onto? Are they going to be pulling out onto Block? Because I need to know that. Or are they going to be pulling out onto Church Street? Because then I will avoid that street. Or are they going to be pulling out onto Dickson Street? Which street will they be on?

Anthes: Ms Critendon, you need to direct your comments to the building, to the commission, and we will get back to the questions when we debate this issue.

Critendon: Okay, so you don't know which...

Anthes: We do know, but we...

Critendon: You can't talk about it, okay.

Anthes: We don't have a back and forth during comment. Thank you.

Critendon: The only other comment that I have is that if we allow this ten-story project I'm afraid that eventually the joke will be on us because we're not going to have a view to view from in these large buildings. Thank you.

Reise: Hi, Commissioners, I'm Karen Reise. I'm the President of Washington Willow Neighborhood Association. This has been a big topic of discussion

on our list serve and I would just like to say that so far our neighborhood is overwhelmingly opposed to this project. While I can't speak for each individual in our neighborhood, we gathered over 120 signatures in three short days on our listserve opposing this project. I'm all for a hotel on Dickson Street. I'm all for a sidewalk café. I like the way this looks. I think it's exciting and beautiful except that it is just too tall. My problem with this is the height. I think that it is not compatible to the surrounding area and I would be on board with this project if they would lower it. I know they're trying to make the economics work and we're not supposed to talk about that but I would just like to say that as it is currently I am opposed to it simply because of the height. Thank you.

Palmer: Hi. My name is Larry Palmer. I live at 1539 North Rhonda. I appreciate the opportunity to express my support for the project. I appreciate your patience. It has been a long night and you've heard a lot of things so I'll try to be brief. Probably no one you're heard from tonight spends more time on Dickson Street than I do. I enjoy it. I use it. I could never support anything that I thought could be damaging to it. I see this as a real asset. With every asset comes tradeoffs, with growth comes changes. There's been a lot of questions with compatibility. You don't have to go far up and down Dickson Street to find several examples already of non-compatibility. Everything is not going to be compatible with everything. The assets I feel greatly outweigh any negatives or offsetting negatives that could be brought up. It's a good thing for Dickson Street, it's a good thing for Fayetteville. The developers have gone a mile here to try to show you compassion and interest in what is good and what is compatible. It can't be a perfect situation, a perfect scenario never is. There are tradeoffs and there are assets that greatly outweigh anything that would be a negative. They've done a great job in compromising and I would hope that this board would equally attempt to compromise and see the assets. Thank you.

Anthes: Thank you, Mr. Palmer.

Die: Hi. My name is Benjamin Die. I'm a resident on Jackson Drive, which is about a mile away from the proposed building. I just want to I appreciate you letting me come up here and say a few words. Unlike some of the people that have come up here, I really think that the height is a welcome addition. A lot of my friends and people I've talked with love coming over I-540 and seeing the different buildings. It's compatible with our current skyline. It can link the University and Lower Dickson with the Square. There is a lot of architecture here, you know I think we don't have a building that is this modern yet, but obviously that is going to bring some resistance. With change, some resistance will come. This building meets the need with many of my neighbors, friends, co-workers, it meets

the need. The longer you wait I think it's going to be less and less feasible, especially if we set some sort of precedent of not allowing, of putting a definite height restriction on it. Thank you.

Anthes: Thank you.

Pritchard: I'm Mary Pritchard and I live a block off of Dickson on Gregg Street. I have several concerns about the height. They've stepped back off of Dickson but my concern is on Church where you're supposed to have this wall of ten stories high. I did go to the Bills of Code and talking about human scale and walkability and not being intimidated by a building. If you're walking down Church towards downtown, having ten stories rising right off the road it's pretty intimidating. My other concern is a view shed. It becomes very evident with the rising of the Legacy Building that the views if you're at the bottom of Dickson facing going towards College your view is being cut off. With tall buildings, that's going to happen. We're all concerned about it and I hope that you all consider that the height of this building is a real problem. I hope that you deny it. Thank you.

Anthes: Thank you, Ms Pritchard.

Scarlett: Hi. My name is Lee Scarlett. I'm a homebuilder here in Fayetteville. First of all, I thank you all for your time. I wouldn't want to be sitting where you are right now. I've been on the board of the HPA and I know you've got a tough decision. What it comes down to, the second lady who spoke tonight said something about the historic aspect of Dickson Street. I know a little bit about history. I have a Master's in history. The one thing I know is that you can't stop progress and you shouldn't stop progress. On Dickson Street, most of those buildings especially the one that was torn down on this property are from the 50s, 60s, and 70s. They were built in place of other buildings that were built in the Victorian era style and so on and so forth. Buildings are built on top of other buildings. That's just the way of the world. I think that it is a great project. I have a lot of clients that come into town and they end up staying, if I'm lucky they stay at the Holiday Inn in Springdale but most of them end up staying at the Embassy Suites because that is the nicest. There's no place to stay that is nice in Fayetteville. The Radisson, if you all have stayed there recently and my parents were there a week ago, the carpet was taped together in the hallways. We need this. It's going to fit Dickson Street. It's going to fit the style. I think it is an eclectic look and that's where it should be. They didn't stop Frank Lloyd Wright when he had a different idea about buildings and we shouldn't stop them. What they're doing is solving the problem on Dickson Street parking. I don't go down on Dickson Street very much and when I do go I valet park. We need that here. The city of

Prague is a perfect example. In Prague it's the most beautiful city and has been voted so ten years in a row, they have Rococo style, Renaissance style, and Gothic style. So I hope you approve this building. Thank you.

Anthes: Thank you. Ms. Alexander?

Alexander: Fran Alexander. I want to talk about the focus if any of you have been to city planning sessions with the type of atmosphere where you were told to design around a town, quite often they will tell you that you need to pick the focus points of the town. This will become a focus point due to its height, immediately to College when you turn down College. It will take away from the focus of Old Main which is our most recognized building. If we have this kind of height then people will see that when they come to town rather than Old Main. We're going to be drowning the old Courthouse, we're drowning the (inaudible). These are the images that people have come to their minds when they think about Fayetteville, except perhaps the Razorback Stadium. It's very important that we understand tourism is quite often based on design and the memories of that design. This is on the isle-way to Old Main. This is going to definitely impact that symbol. I want to point out to you, too, I don't believe it's been stated tonight that although this has gone from fifteen stories to ten that does not mean that it has actually dropped that many feet. We need to talk in feet rather than in stories. From 225 to 181.6 is more in the realm of 20% lower not 33% lower. I think this is a very important point because we don't have a definition of how many feet a story actually is. That needs to be taken into consideration. I think the lady with the Legos did the best. Wish I had thought of that. The height also determines the human scale underneath and that is what people are talking about on this charm issue about Dickson Street. I put on my environmental hat along with John Williams who passed me this. He says that he had to leave. There is a serious need to conserve energy. I do not see any evidence to concern to deal with this design of this building. This has become more serious in the last four months. Design should be based first of all on conserving energy. My brand new son-in-law will be going to Iraq to defend our energy. I don't like that a bit. I hate to think how much is going to be poured into this building. If they're going to build it, I suggest they try to make it a building like our library. Thank you.

Smith: Good evening. I'm Jim Smith. I'm a local lawyer by day and an anything but lawyer at night. I'm here in that capacity as opposed to discuss the merits of the case laws out of respect of rather or not we have legal issues. Who knows whether we do or not. What we're talking about is one of compatibility. We're talking about an arts cosmopolitan town. We're talking about a location that is the focal point of a university town that ten years ago wasn't even ranked anywhere with respect to the financial

capacity of the university or how good a university it was. All that has changed. Huge amounts of money are committed to the university. I'm not talking about economics as far as this project but just all the benefits that are going to grow from all the benefits that are going around Dickson Street from an arts and entertainment aspect, which is our single most important aspect in Fayetteville. We do not have sufficient hotel and upscale hotel space. At the benefit of having lots of clients come in from all over the world, it would be a real treat to have a facility like this, something that they're used to. Something that they're accustomed to. The gentlemen that owns Jose's referred to it as a cornerstone between the square and Dickson Street. When I've been taking notes all night tonight, about an hour ago I looked at it as more of a bridge. I think one thing is certain. We've got to find a way to bridge downtown, the square, and Dickson Street. I think that if you'll study it and look at the successful cities throughout America, hotels and entertainment facilities are the cornerstones or the bridges or the foundations. You don't have to go very far in Arkansas. I don't think we have to worry about being a Rogers or Bentonville. That's not who we are. You're right. We do have an opportunity here with private folks with no tax issues to build something like that. I know I'll enjoy it. I hope very much that my six-year-old and my three-year-old sons who are home tonight with their mother because I felt that it was extremely important tonight to come out here and to take stand, that they'll enjoy it and that their friends will enjoy it. As someone earlier said tonight, it will be a monument to here we are today. We all respect the facilities that exist from the 30s, the 40s, and the 50s, but I think it is equally important to live in today and to enjoy all the benefits. One thing I do want to ask, not ask but you to consider, is that I talked earlier about energy tonight. I'm not an architect, but I do serve on the board of a couple of companies at a LEEDS building that has more glass on it than any other building in town. It runs through that. That's how it operates. That's how it runs its electricity is through the solars. I don't know, obviously I'm an outsider on that, but I do know that there are ways in this day to handle those energy issues. Thank you for seriously considering this.

Kramer: I want to say thank you for all of you and your sitting power. This has been an education for me. I've learned a lot I didn't know.

Anthes: Ma'am, could you please introduce yourself?

Kramer: Okay, I'll get to it. I've lived here for fifty-five years. I have an abiding questions about this, why the top of Dickson Street, why so big? There have been suggestions that it could be not quite such a shocking project if it were scaled down somehow or is there some kind of special prestige that attaches to being the 12,000 pound gorilla at the top of Dickson Street.

Hard to tell, there has been a lot of commercial interest resulted here. One of the things I didn't like is the kind of insulting tone with words of old-fashioned we don't know about frozen project or progress. One of the things that I would like this assembled group to remember is that this is a university town and we do have values that surmount the entire community that have to do with the life of the mind and there are entertainments for people who like to use their abilities on the campus every single night. We have scholars from all over who are implementing the idea of a university. I would love it if this project and its very prominent place could reflect the fact that this is a university town. Thank you.

Anthes: Ma'am, would you mind stating your name please?

Kramer: Oh, I'm sorry. I'm Louise Kramer. The university up there is my university. I love it when they do things right and I get very angry when they do things wrong.

Anthes: Mr. Sharkey?

Sharkey: My name is Mike Sharkey. I live in a house that is not far from the view to Old Main and it is 101 years old and it happens to be about five feet from this proposed development. I think that a setback is five feet from the boundary, I'm not sure. Anyway, they have gone to considerable effort to show us what this look likes but I will be living in a shadow of 180 foot tall canyon. I'm here of course against this. I think it if can be scaled down to a reasonable level that everybody, including the developers, would be happy with this project. Thank you.

Anthes: Would any other member of the public like to speak to Large Scale Development 06-1997? Please come forward.

McQueen: My name is Mark McQueen with Athletic World Advertising. I've been in Northwest Arkansas since 1979. I love Fayetteville for what it is. A part of what it is is what the planning commission has done over the years to make Fayetteville a beautiful place. That being said, I do support what the Barber Group is trying to do here. I think it's wonderful that we're growing, that Northwest Arkansas is growing so fast. I think we need to seriously consider giving some opportunity for some advances that is going to bring some money to Northwest Arkansas, it is going to bring a lot of tax dollars into the Fayetteville High School. I would like you to please consider this.

Anthes: Thank you, Mr. McQueen. Would any other member of the public like to speak to this large scale development for Divinity Hotel and Condos?

Seeing none, I will close the floor to public comments. I have a question of the commissioners. This item has been before us for two hours. We have ten more items on the agenda tonight. I just want us to keep that in mind as we go forward. Does the applicant have a presentation?

Hennelly: Yes, ma'am. In light of having gone on for two hours thus far and everybody sitting here I wonder if a couple minute break for people to use the restroom and get a drink of water, that type of thing.

Anthes: If you're willing to relinquish your time or step your time back for that.

Hennelly: That would give us time to get these renderings together for the in-depth presentation.

Anthes: That would help us a lot. We'll take a ten minute break.

Break

Anthes: Okay, we will reconvene the meeting. Mr. Barber, before you get started I would just like to ask the commission whether we might change the order of the agenda tonight. Item number 11 conditional use permit 06-2019 for Bohot there are quite a number of elderly people waiting outside to speak to this issue. In all likelihood it will be near midnight if we leave them on the agenda where it is now. I would like us to be able to consider that item following this large scale development if that would be acceptable to the rest of the commission. Mr. Whitaker, do we need any kind of formal motion or do we need to just state that we're changing the order?

Whitaker: It would probably be best for the record to have a motion, second, and a vote. Although we won't have any trouble getting the votes.

Graves: Madame Chair

Anthes: Yes.

Graves: I move that we switch the agenda around so that conditional use permit 06-2019 item number 11 on the agenda is moved to become item number 5 on the agenda and that the others then fall in order accordingly.

Clark: Second.

Anthes: A motion by Commissioner Graves and a second by Commissioner Clark. Is there further discussion? Will you call the roll?

Roll Call: The motion to move item 11 to item 5 was passed 9-0-0.

Anthes: Thank you for letting us take care of that. It's your floor.

Barber: Okay, thank you. I'd like to thank the commission members. I will ask for just a little flexibility if I veer off. I'd like to introduce our company and if I go into what could be close to economics just stop me.

Anthes: I'll catch you.

Barber: I know you will. I think it will be important that I introduce my company and myself more because it's been a rough couple of months here as we've taken this through. There's been many things said about me and my family, a number of things that is part of the job when you're in the public eye. I've never been to one of these meetings primarily because we have a large staff. We always try to partner with who we think are the best engineers and architects. So I haven't been here. I have met most of you. I have met most of the city council members, but I wanted to just introduce myself to you. I want to throw out a few things that flow with the fact that I am from Jonesboro. I am not from Dallas, Texas. I've a real estate company in Dallas. This is because my partner lives in Dallas. This has nothing to do with Dallas. I have a family relationship and I wish to invest more money here so we can do more economic development. I assure you it is more speared to what we're doing right now. I just wanted to get that out here. Also, I just again going back to I want to thank you for your time, specifically your job is a thankless one. I can't imagine being here listening to people like me speak this long on a bi-weekly basis, so I appreciate your time. As I've said publicly and privately, I look forward to debating this economics or not. I think it's healthy that tonight we saw a more balanced part of our government and our city here in the meeting. I know normally we don't see the balance because those people are busy civically and business-wise and that's just what it is. I'm glad that you all...

Anthes: Mr. Barber, I need to interrupt you one more time. I would just like you to state your name for the record.

Barber: Brandon Barber.

Anthes: Thank you.

Barber: Thank you. I left that out purposely. I think it's important and I'll get started, I think it's important that sometimes when we talk about development we forget what was there before we started, for better or for worse. I think we ought to remember and I just want to touch on a few projects that go into Divinity and I think have a purpose to what we're

talking about tonight. The Legacy Building was former Shulertown (inaudible) you saw the Legacy Building on Development. Bellafont that we brought through and Wellspring because these are significant developments. We've done a number of subdivisions, we've built a number of homes, but when you look at those three developments, I think that all three in their own way will have great significance to Fayetteville. This is the building that used to be on the corner of Block and Dickson, a purple gas station and the Petis Law Building is still there. I think that one thing that Jeremy Pate has seen is that we've been very easy to deal with, when we deal with the city I was shocked, and I want to make that for the record, that the city didn't approve it. We come here to be recommended for approval tonight. There can be a perception that we move fast, we do move fast. Jeremy has been very blunt to us. He's never seen anybody like us. I don't think that is completely positive or negative. We work hard. We work 16-18 hours a day. It's amazing what HKS did to get this design to you by the time they did in what was a complete redesign of this property, which was a complete cry of the public. We do work hard because the project is so big Fayetteville has not seen these kinds of projects come through so it's been a little overwhelming and we respect that. However, that does not mean that we are irresponsible developers. I do want to get out for the record, too, the name Divinity, because I think that's what we're here to discuss tonight. I never knew that my grandmother's candy would be such a sensitive subject. There's no higher calling. I never meant to be offensive. I will make sure that this is not a reference to religion. I think most people know this, so I want to move on from there. We've been planning this project for over a year. We've been visiting with planning since I believe October or November. I want to just hit the highlights of the building. This is a \$70 million dollar investment. I think that it is important to know that whether we talk economics or not, we might be the biggest idiots in town for investing this much money on something that we have no help on. We've literally I've never seen a hotel developer and Mr. Hammond has been mentioned a few times tonight, it's always what are you going to do for me and then I want to come in with my development. This has been single-handedly a completed project. I'm not saying that's the smartest move, but that's what we're going to do. That's what we want to do. I wanted to talk about revenue for schools, but I think that touches on economics.

Anthes: I need you to go to the next slide, please.

Barber: Let's go to the next slide, no revenue for schools. The elevations are more for to be debated to go over. Specifically, during the project this is what we're talking about. I think this will. We're talking about commercial design standards. Keep going. I want to show a slide that's...Commercial design standards, we found this from the city website. The established

regulations apply site development standards that include landscaping, landscaping provisions, streaming, fences, site coverage and driveways. Structure standards require that certain elements are to be wooded and a development with more than one building should incorporate a recurring unifying and identifiable theme for the development site. I said at subdivision committee meeting and I do think that it's worth stating as well the reason we asked to be forwarded to planning commission even though we were denied if we were to have three more planning commissioners we would have eventually been talking to everybody anyway. All we wanted was a debate in front of our planning commission that by no means was supposed to be a cowboy effort where we're just going to go right through and go all the way to the top. This was specifically we wanted to have this debate here. In that meeting, I said I was looking forward to how you guys would look at compatibility and design standards. I'm reading this and when we're talking about a recurring and unifying theme for a development site of more than one building, that reminds me of Bellafont, that reminds me of a project that you recently approved that has one or two buildings that are right there the same and they all look the same, with slate roofs and stone. The design standards barely passed that by. Compatibility is the favorite code ordinance that states that development should provide compatibility and transition between adjoining developments. Again, it should provide compatibility and transition. You shouldn't drive over the 55 speed limit. I think that we in my opinion we have conveniently in the spirit of we do know there is a downtown master plan coming, we know that there are other tall buildings and it's a bad time for us to come through downtown, so we might be getting more flack because of timing and we respect that but shall and should these are standards. These are not binding and hard and fast rules from the way we looked at that in the sense of specifically height. These are guidelines.

Anthes: Mr. Barber, I just would like to remind you that this commission looks at commercial design standards every single meeting on numerous projects. We know what the ordinance is. We have interpretations of that ordinance by our city attorney. We have interpretations of that ordinance by our planning staff in terms of developments and administration. You don't need to read the ordinance to us. Thanks.

Barber: That's fine. I was more talking to the public. I apologize. Here is a slide that I think someone mentioned they saw when we were talking to some of the business owners on Dickson. If you look at the elevation, I don't have to walk you through this, I'd be glad to bring this back up, but we're just kind of right there in the middle and that's what we've been saying. We don't feel we're piercing the skyline. We have significant buildings that have been built, or that are proposed to be built, or that are proposed to

add stories that are taller. Again, there is one side of the building that is 181 feet, which is a 20% reduction, but again I'll let Eddie speak to how it is closer to 120 feet on the east side and that one area on Church Street which I assure you Church Street and Block Street we want to see more pedestrian traffic, we've done some pedestrian studies, there's just not much pedestrian traffic right now and I think that's what is exciting about this project is that we are connecting and making a gateway from the square to Dickson Street and I think that's exciting. We can come back to that to look at that closer. I want to talk about three instances that I think we talk about precedent we usually don't talk about precedent until recent. March, let me look in my notes, on March 13th we had the Malco Theater come through definitely a box-like structure, no one here is more excited about a theater in Fayetteville than me, but we did look at it in the sense that it is a box it doesn't meet the requirements and two commissioners were quoted as saying "we'll be tarred and feathered not to pass this tonight." I've always been an anti-box person. There's no...

Anthes: Mr. Barber, could you please talk about your project?

Barber: I'm getting there. I think this is very relative to my project because I can't talk about the design rule. I just want to talk about three things that have to do with my project. Just a little flexibility, please. "Knowing that earlier this evening I would definitely be murdered and be found dead somewhere in the community if I didn't vote for this theater." I could talk about economic benefit about this hotel you did a good thing when you did that for the Malco, that's my point. The Lofts at Underwood again it's about the driver, maybe a three wood, from our building, same surroundings, same as the Divinity project, close to the 7-story Legacy building found in keeping with all the rules of design standards despite its height. Again you made a good decision. The Renaissance Tower, the funded project that will be coming back to you to add two floors for economic benefit. I don't know if they're going to talk about it or not, it will be too political. Two floors so they can get their hotel and be in competition to us, I'm very excited about this project, I think we need more rooms downtown. I think the idea of compatibility with this project more than anything amazes me. I don't know whether it was discussed before the start of this year, everything that would happen at Underwoods, Bellafont, that was three or four weeks ago where we have twelve to sixteen story buildings up on Joyce Street that we're building, but specifically all these buildings we look how closely it is to the Renaissance site that will be eighteen stories and one story two story three story buildings...

Anthes: I believe that project has been approved at sixteen.

Barber: It has been approved at sixteen, yes for now. It's coming through for 18 along with the downtown master plan and a number of things are coming through. I guess my point and I'll finish up is that to me I'm not talking about economics. I have C-3 zoning and I want to talk about what the planning commissioners look at. We're talking about commercial design standards. We have a minimum on a lot of our codes and design standards. If you look at the projects that we do, and if you look at what is going to be inside of this building and outside of this building, when you see the copper and the materials that we put there's not a minimum that we do in any project. That's something that we don't have history on our side so we respect that on some of the projects that we've done. When I purchased the property, it had C-3 zoning, and all I'm asking is that we want to be placed on a fair scale. All of these other buildings that I've talked about have C-3 zoning. If you had told me that we could build a three story building on this site then I would have done one of two things. I either wouldn't have bought the site or I would have put a three story building on it. I think that is the beauty of Dickson Street, that's what we've got to remember. You're heard this tonight and you'll hear it a lot more, we can't talk about diversity when we're gearing up to have something that might be approved for six stories although it is not in the spirit of I want 20-story buildings on Dickson Street but in the spirit that it's all the same. That's not what beautiful about Dickson. Dickson is diverse, it's a patchwork. The whole downtown is a patchwork, you've got a train, a caboose on the end, you've got modern buildings, you've got historic buildings. All that Divinity will do is add unique flavor and character to an already diverse street, and that's the beauty of the street is that that many people can come and go to Roger's Rec or Bordino's, sometimes two different walks of life, and we feel safe. I think that you'll hear us over the time of this argument specifically talk about Walton Arts Center because that is when a significant amount of money was invested, that is when it became safe, and to us Divinity is compatible with its surroundings. It's compatible the same way that the Malco and Underwood Lofts are compatible to their surroundings. No one loves Dickson Street more than us. We're ashamed how much we've been on Dickson Street since 1994. We're big fans. I think that as far as Dickson Street being a destination, if that was every misconstrued during subdivision meeting, Dickson Street has never been better than it is right now. We all know that. This will only enhance Dickson. This will only take into another level, and specifically from the sense of revenues and school districts we've got to respect that competition, we've got to respect that the (inaudible) of this will be. I think it will enhance the character and energy, and obviously I would appreciate your support in voting for it, and I will let Eddie talk about the specifics of the building. Thank you.

Anthes: Thank you, Mr. Barber.

Abeyta: Again my name is Edde Abeyta and I'm from HKS Architects. I want to just back up here a second and try to talk about the project from the ground up so that you can understand how we see this project and how it relates to the surrounding context. Before I go specifically to the architecture, I want to talk a little bit about the idea of the place. I've been to the state of Arkansas on several occasions for business and one thing that I truly recognize is the beauty of the state in terms of the character, the rolling hills and trees, the rural character, the agricultural character of the surroundings. When I came to Fayetteville in December for the first time I was really wowed by the sense of place of Fayetteville. When you couple Fayetteville with the state of Arkansas it is just, to me, a beautiful amazing place. I think our project can truly identify with it. One of the key elements in our mind in terms of how we kind of analyze the surrounding context is that Fayetteville has these sort of distinct elements, whether it's downtown or whether it is Dickson Street. Dickson Street, in itself, lends itself to a really awesome place. It is a place in itself. It is pedestrian oriented. It gives back to the community by the types of businesses, restaurants, and bars that run along that streetscape and interfaces with the pedestrian. It has great character and eclectic quality just like Brandon was describing. This is not about one particular style. It has character because the building facades change, the materials change, the buildings undulate in and out, there's rise and fall of the building tops. We think that that is what makes Dickson Street so special and because it is so special it has a great spirit and a great energy about it that we think our project usually identifies with. If there was a goal behind this project the goal behind the project and the vision for it is to identify with that spirit of Dickson and Dickson Street itself. I really want to talk about the project threefold. We think it is more than about architectural style. We believe that it is about how the site is organized in terms of the functions of the particularly building is organized onsite to interface with Dickson Street to how the project is masked in terms of how the volume of the project has come about and its relationship to Dickson Street and compatibility. Thirdly, really about the characters of the building, the architectural I guess you could call style. I want to first begin talking about again the site, how the site is organized. One thing I would like to describe is that we have really critically looked at how the site is organized in terms of where public functions fall in terms of where back of house functions fall to really support and interface best with Dickson Street. If you know the zoning, the northwest corner of our site I know I've explained this we've got the main restaurant to this facility on the corner of Church and Dickson Street. It is a high energy public space that we've placed there to energize that corner and take advantage of the interaction with Dickson Street. On the opposite side of the site, on the northeast corner, on Block and Dickson we have what we're calling the lobby lounge and bar. That's another high

energy public space anchored at the opposite end of the site to encourage people to move and energize Dickson Street. Falling between those two anchors we've got the retail space which could be shops and retail components that will interface with the public along that streetscape. As you turn the corner down Block Avenue to come south we've extended that sort of public aspect of the street down Block Avenue. That's where we've positioned the main entry to the hotel. As you come off, we think that visitors coming to the site will come off of Church Street circle down Dickson and they will be confronted with this sort of key element which is the main dropoff for the hotel which is going to be a very public animated activity zone that will nicely interface with the streetscape. As you go to the west end of the site, we've positioned just south of the main restaurant, the condo dropoff and lobby which is another public component of this project. So the majority of this perimeter of this site is energized with public space. We think that is a key element to have. That is how the building has come about. One additional thing I would like to mention on this floorplan is that all of the service components of this project in terms of the docks and trash comes in and out servicing for the hotel for the condos for the restaurants, it all has been positioned at the southern end of this site, as far from Dickson as possible. We've tried to enhance the pedestrian experience along Church Avenue by screening the ramping that goes down to the below ground parking and the service areas with potentially retail showcase windows so that retailers and advertisers can take advantage of that zone along that service zone to disguise that and screen that from view. We're trying to be you know do things for the pedestrian along that streetscape as they circulate up and down to Dickson Street. As you move to the second level, as I have mentioned previously this is the second most public area of the project. This is where we've located our main banquet and meeting space. The key element here is that the two anchors at the corner are opened up and spaced volumetrically so that the energy of the restaurant connects vertically to the second level. We have a VIP lounge with the grand stair that connects you from the main restaurant level below to this upper second level public space. There's opportunities for outdoor terracing that will go off of this outer edge. Opposing on the northeast corner of this site we've also opened up the lobby with the grand stair that comes up to this public space. All of that is connecting with the main prefunction which serves the main bound. The prefunction has been positioned along Dickson to energize and interface with Dickson Street. A lot of people will be gathering in that zone. We'll have a nice connection with the streetscape below. As we move vertically, directly above the banquet facility as we have spoke there are two levels of above grade parking garage. We've disguised those and I'll talk about that in a moment with the elevation and architecture. As we get to the top of this podium thing it is a four story podium that I spoke about earlier again we've tried to energize the roofscape of the people

space. The people space is defined with sort of a u-shaped plan with the main hotel. This is thought of as a communal space like pre-game post-game parties, weddings, whatever there might be that can really enhance this project and start to lend itself as to how the public character and energy can extend from the street level up to this outdoor pool environment. As we continue vertically.

Anthes: Excuse me.

Abeyta: Sure.

Anthes: I'm sorry. Could you put that on the other well just because it's very difficult for the camera to see what is on the left-hand side. I want to make sure that everybody can see it.

Abeyta: As we extend vertically through the building, this is where we have a combination of condominium units which sit on the northwest corner of the project and extend down into this zone to where the hotel sits. This is all hotel function and this is all condo. So we've got two levels of condominiums that interface with the hotel and once we get above the hotel we pick up all condominium units which are potentially six units on one floor. Directly to the east of this condo tower this is where we've positioned the spa and fitness center which sits on top of the easternmost wing of the hotel. Again we're trying to energize the roof environment with an outdoor public space for the fitness and the spa and condo owners. As we rise above that, obviously there is one additional level of condo and then at the top this is where we've tried to terminate the building with again another public function. We're proposing a specialty restaurant with outdoor dining and deck space that will really take advantage of the view towards University and down Dickson Street, as the terrain actually drops. So that's kind of a brief description of how the project interfaces in terms of how the site is organized. In terms of the massing, I think I clearly described it last time but again I want to emphasize the fact that our project across 90% of this entire Dickson Street elevation is a four-story podium. The wing of the hotel that comes out stops short of this four-story podium by approximately ten feet so the building is transitioning above the podium back to the hotel. Again we did drop from five levels of hotel back down to four. That four-story component actually wraps this outdoor zone of the Razordeck. On the western corner of the project, we've emphasized sort of energy at street level by this restaurant on street level and so forth, we have introduced what we're calling the glass cylinder. This glass cylinder rises from street level all the way up to the top level restaurant outdoor deck space. It does transition in scale down to the base is wider and as it goes up across to the condo it comes in and comes to the top of the restaurant and actually tiers in again. Our idea is to really

energize that corner let that becomes focal point to this project off of Dickson Street and really celebrate it through the architecture. I'm going to go ahead and walk around all of these elevations real quick. This elevation right here is the west elevation. Again, in terms of how our project we think our project is compatible with the design guidelines and with the spirit of Dickson. As you can see there is not one common theme across the façade. There are a lot of elements, changing elements, in terms of material, in terms of plane change, in terms of depth, in terms of elements. We've introduced brick as sort of a main plating element to the hotel. That is sort of expressed with the open grid concept that runs across the face of the hotel. As that punched look open grid extends down the face of the garage down to the podium level, it would introduce a level zone to naturally delineate the parking garage which would be screened from view by these screening devices. We are introducing contrast material of metal to define what would be condo in contrast to what would be hotel and then again reinforcing the corner with this glass rotunda at the northwest corner of Church and Dickson. This brick element at the base has been introduced as a sort of frame element, not only as a visual composition but also to allow the base conditions which occurs across Dickson Street to actually turn the corner and relay itself back on Church Street. This is again not a flat façade. There is varying degree of depth to the façade. We have a series of balconies for each of the condo owners across the zone of the condo façade, across the top of the hotel. The hotel itself also has incorporated a series of balconies for depth. So we've got balcony opportunities, shadowing capability, layering, and depth to that façade. As we extend around to the south façade which was a little bit of controversy last time we actually has changed that up a bit in a way that actually grouped a series of four windows that make up four guest rooms in such a way that we're actually creating sort of a vertical element of glass. We'll play with layers of slab edges to create shadow to push back the face of glass to create depth and shadow and character across that façade. We're trying to contrast the character of the hotel from the sort of podium garage element below through the use of a screen wall. The screen wall is on the backside and is an open side where it has depth. If you look at it from an angle you really don't see the cars behind it will become just a screen element from view in front from the streetscape. That would really clad the southernmost face and come along the easternmost face the garage element and span across zones of the building. As you can see, we've introduced that metal concept of the condo expression integrating the metal into the layer of brick. Also that metal is expressed as an element to distinguish the spa from the hotel itself. We're trying to build a series of elements to create contrast from one façade to the next. As we move around to the easternmost façade, this is really the approach into the hotel entry. Again, that created a façade of punched windows defined with a perimeter of brick defined by a sort of hotel component, the spa comes

across with copper and turns down the façade to integrate these two materials and really anchoring the corner the northeast corner of the project on Block and Dickson with sort of a massive contrast to the glass you find on the northwest corner of the project. I'm trying to hit those three elements of how the building is organized onto the site, how we have responded to interface with Dickson Street so that the mass and the scale how the project steps back. The majority of the hotel across the face of the pool deck is sixty foot back off of Dickson Street. We're trying to emphasize that four-story podium. You can really see it in this upper-level perspective as the northeastern leg of the hotel actually steps back at ten feet you really start to read that four-story scale in relation to the project. Some of the really kind of cool elements that we'd like to talk about with regards to how the building speaks to the pedestrian scale, there's a series of perspectives along the base over here. This left perspective from street is at the corner of Church and Dickson and that is really trying to describe the character of the experience with that restaurant that sits on the corner. The key in describing that is the number of elements that create a series of layers across that façade. There's canopies that drop down to reduce the pedestrian scale. There's a change in the diameter of that cylinder from larger to smaller at the entry zone. We're changing materials across the base of the column expression going from copper to glass, lots of detail, lots of character. As you move to the center perspective, that's a view moving east along Dickson still adjacent to the corner restaurant, looking up at the prefunction zone of the meeting zone, and I failed to mention that the prefunction zone of that meeting space actually angles out and hovers above the sidewalk. The design guide actually encourages elements of structures to engage and encroach into the building setback zone to enhance the pedestrian scale along the streetscape. That's what we're suggesting in sort of a modern way. This is not a traditional application. It takes the ideas and interprets them. It tries to insert them in a way that is creative, modern, and interesting to the pedestrian. Just below that prefunction element that hangs down is a series of canopies about twelve foot off of street level. It's really to enhance that pedestrian character along Dickson Street. The third perspective is looking back sort of standing at mid-section of the block looking back towards the restaurant and looking at how we would suggest undulating the façade of the retail. The contrast and material become sort of projecting bay windows that undulate for each of the individual tenants across that façade. We're trying to introduce detail in the layering of the character of that space. The design guidelines speak to trying to integrate approximately 70% of your glass frontage for retail components being all glass. We're promoting that. We're suggesting that. This is not going to be a highly reflective application of glass. We believe in using glass technologies where there are clear planes of glass with a coating that actually keeps the heat out of the building. There's ways of doing that other than just using what a lot of

people might think is a reflective glass to where it becomes all glare to the surrounding context. We want to encourage people to engage with the interior where the interior looks out and the outside looks in. With those series of images we're trying to speak to the pedestrian. That sort of character that we're showing in that third perspective would extend along what would be the western elevation along the screen wall which actually screens the service area of the hotel. I do want to mention one last thing with regards to how we've been compatible and respect the design guidelines. I've gone through I've identified a series of specific examples out of these design guidelines about how we're trying to promote the design guidelines and respect them. On page twenty of the design guidelines it calls out that balconies shall curve forward of the principal façade and encroach on the right-of-way. We're encouraging that. We're encouraging the façade which actually interfaces with Dickson, we're encouraging that with the façade that interfaces with Church Street, we're encouraging that with the façade that interfaces with Block Street. On page twenty-five it states that the facades of the building are encouraged to be finished with more than one material. We are suggesting multiple materials layered against each other, maybe in a modern way but in a way that creates an interesting composition, an interesting relationship to the pedestrian. The design guidelines on page twenty-six talk about composition of facades of how you have a base condition, a middle condition, a top condition. If you look at our façade along Dickson Street, the way in which the retail speaks to the base condition, the introduction to the element at the prefunction becomes the middle condition of the façade, and how we have actually treated and framed the articulation across the garage becomes the top across that podium. That idea extends itself into the overall picture of the architecture with the base being the retail prefunction, the middle section being the façade that covers the garage, and the top being the expression of the hotel, and finishing off with the special element at the top the glass cylinder. Going on to page forty, there's a specific example of a modern building in these guidelines and it's talking about the use of a metal standing seen roof material. That standing seen roof material in this example has been used as a façade application. It's taking the guidelines interpreting them and trying to use them to present them in a new and interesting way. That's how we feel our project is responding to the spirit of Dickson Street. The permitted materials within these design guidelines they call out for brick they call out for concrete block they call out for metal. We're proposing to use those products on this particular building. Then again one last specific example, on page thirty-three it talks about a minimum of 75% of glass across retail fronts. We're encouraging that interaction between indoor and outdoor across an entire streetscape as we're anchoring the northeast corner of the project all the way to the southeast corner of the project. Brandon, do you have anything else? Thank you.

Anthes: Thank you, Mr. Abeyta. Commissioners?

Graves: Madame Chair.

Anthes: Commissioner Graves.

Graves: This project as we knew it would have generated a great deal of considerable public interest and it will continue to do so. It's my feeling that it was appropriate for planning commission to keep this on its regularly scheduled agenda to get that discussion going. But, we have nine more agenda items tonight. We have lots of applicants waiting to have their items heard. I don't think that just simply moving this or tabling this to our regularly scheduled meeting, that's not going to solve the issue because we'll have other agenda items next time as well. I'm going to move that we table this to a special meeting to allow any new and additional public comment that there might be at that point in time, any new information that the applicant might want to present at that point in time, but primarily to allow this commission a full and fair opportunity to fully debate this without having waning attention spans and things of that nature. So, I'm going to move to table at this point to a special meeting on May 1st at 5:30pm just to take up this issue so that we don't have other agenda pressures on us whenever we start debating this.

Ostner: May I make it a friendly amendment to make it 5:30 as our other meetings are?

Graves: What did I say?

Ostner: I believe you said 5:00.

Graves: I meant 5:30.

Ostner: Thank you.

Anthes: I don't want to throw a wrench into this but as far as I understand it, this room is occupied at 5:30 next Monday May 1st with a street committee meeting. I would think that we would need to coordinate availability of facilities with...

Pate: We can work with the city clerk's office to determine what facility would be available if the street committee meeting could be moved. We could certainly look into that.

Ostner: Madame Chair.

- Anthes: Commissioner Ostner.
- Ostner: I would like to second that motion. I think it's a great idea to set aside a special meeting to only hear this item, for the applicant to have more time in the evening, for the public to have more time, and for us to have more time, as Mr. Graves stated.
- Barber: If I could just ask one question. We're certainly agreeable to that. I think it's a great idea. I just want to make sure that from a planning perspective it's not going to create any problems with public notification or anything like that, being one week from tonight.
- Pate: Correct. The planning commission is announcing it as a public forum that they can sit through, a public meeting, that's perfectly fine.
- Anthes: So we have a motion to table by Commissioner with a second by Commissioner Ostner. That table would be to May 1st, which is next Monday at 5:30pm with the location to be determined and advertised. Do we have any discussion?
- Graves: Madame Chair.
- Anthes: Mr. Graves.
- Graves: Just in furtherance of the motion, as far as discussing it, I would like to thank the applicant and the public who came to comment tonight. We've heard those comments, and I don't want anyone to feel that because we're tabling this for a week that anybody needs to comment or repeat their comments again. We've all taken copious notes up here. We're aware of the concerns and we're aware that there is both support and opposition to the project and the reasons for both. I don't want anybody to feel that they would need to come again and say it again because we heard it unless there's I want to stress that when I made my motion the new and additional part for both the applicant and any public comment that would be involved. That's my personal feeling.
- Barber: Is the intention of this to resume basically resume this meeting one week from tonight from this point starting with discussion?
- Graves: My motion is not to cut anybody off if they want to make comments, or to cut the applicant off if they want to present any new and additional information at that point, but primarily to allow us to take it up and begin discussing it.

Barber: Okay, thank you.

Anthes: Is there further discussion?

Harris: Madame Chair.

Anthes: Commissioner Harris.

Harris: Madame Chair, yes, I was one of the ones who voted to put this item on the agenda tonight, and I just want to echo what Commissioner Graves has said in that this meeting has accomplished exactly what I needed for it to do, not that that matters to the city of Fayetteville, but I appreciate it. I think that we have had a lively and vigorous conversation both the applicant and the public. I think that's what we needed with a project of this complexity and with the potential significance of this project, so thank you very much. Again, I would echo what Mr. Graves is saying in that if additional information comes to light or somebody has additional comments to make, we are certainly not shutting off public comment nor applicant comment. But we do have nine other agenda items tonight, so thank you very much.

Anthes: Is there further discussion? Will you call the roll?

Roll Call: The motion to table LSD 06-1997 carries with a vote of 9-0-0.

ATTACHMENT A

STAFF REPORT

April 24, 2006 Planning Commission Meeting



PC Meeting of April 24, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Subdivision Committee
FROM: Andrew Garner, Senior Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: March 29, 2006

LSD 06-1997: Large Scale Development (DIVINITY HOTEL & CONDOS, 484): Submitted by H2 ENGINEERING, INC. for property located at 101 W DICKSON, BETWEEN CHURCH AND BLOCK. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 1.42 acres. The request is for a 10-story mixed use building with a hotel, two restaurants, retail space, parking garage and condominiums with a total of 84 residential dwelling units.

Property Owner: LYNNKOHN, LLC
Planner: ANDREW GARNER

Developer: THE BARBER GROUP

Findings:

Background: Due to the Downtown Master Plan being forwarded from Planning Commission to City Council and this project being in the Downtown area and being submitted after the Planning Commission action, City ordinance would typically not allow this project to go forward to the next step in the City processing cycle until the ordinance issue is resolved, either by City Council action, or lack thereof by May 13. On April 04, 2006 the City Council approved an ordinance to waive this requirement in order to allow this project to proceed without this delay.

Property: The subject property contains 1.42 acres, located on the south side of Dickson Street between Church Avenue and Block Avenue, and is zoned C-3, Central Commercial. A single story commercial building (Something Urban) was removed on Tuesday, March 28, 2006 at the corner of Block Avenue and Dickson Street, and an office building at the corner of Church Avenue and Dickson Street and a single story house on Church Avenue currently occupy the property. As depicted in *Table 1* the site is surrounded by commercial and office development in downtown Fayetteville, with a single family residence adjacent to the southeastern border of the property.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Commercial (Colliers Drugstore, U.S. Post Office)	Central Commercial (C-3); Residential-Office (R-O)
South	Single Family Residence/Office	Central Commercial (C-3);
East	Office	Central Commercial (C-3);
West	Commercial	Central Commercial (C-3);

Previous Proposal: As submitted to the Subdivision Committee on March 30, 2006, the applicant proposed a 15-story (225 feet in height) multi-use building for a 142-room hotel with some condominium units (82 hotel-only, 60 hotel/condo units, 23 condo-only units), retail space, restaurant, bar, and other hotel accessory uses.

Current Proposal: In response to comments from the Subdivision Committee regarding certain elevations, building height, compatibility, etc., the applicant redesigned many aspects of the structure, thereby reducing the maximum height and scale of the structure. The total number of condominiums and hotel rooms is similar to the number of units reviewed by the Subdivision Committee though reduced somewhat. In redesigning the structure, the square footage of some of the uses changed and a rooftop restaurant and bar is now being proposed in addition to the street level restaurant included on the plans reviewed by the Subdivision Committee. The building footprint of the currently proposed structure is the same as the original proposal that covered 97% of the 1.42-acre site. The primary function of the structure would be a 137-room boutique hotel with some condominium units (77 hotel-only units, 60 condo/hotel units, and 16 condo-only units), retail space, two restaurants, and two bars. Included in the structure are amenities associated with the hotel such as pool, fitness facility, ballroom, and banquet/meeting facilities. The square footage of each proposed use and parking requirements is depicted in *Table 2*.

This development would provide vehicular access to Church Avenue and Block Avenue with a 380-space parking deck incorporated into the structure. This project would also provide a 20' public alley linking the existing alley to Church Avenue.

Request: The request is for Large Scale Development approval of the submitted site plans for the proposed commercial/residential development.

Adjacent Master Street Plan Streets/Right-of-way Dedication: Right-of-way dedication in accordance with the Downtown Master Plan street standards as dimensioned on the submitted large scale development plat for Dickson Street (Main Street with minimum of 55' right-of-way), Church Avenue (ST-40 with a minimum of 40' of right-of-way), and Block Avenue (Main Street with minimum of 55' right-of-way) along the project frontages. All public sidewalks outside of the right-of-way shall be located within a sidewalk easement.

Street Improvements: Install a left turn lane at the traffic light at Dickson Street/St. Charles and improve sidewalks to a minimum of 10' along all street frontages. Continue the sidewalk from the property south to Spring Street, replacing existing sidewalks in the same manner as those constructed on Dickson Street; width may vary, but should replace all sidewalk on the west side of Block Avenue.

Water/Sewer: Water and sewer are available to the site and will be extended to the facility.

Tree Preservation: Existing Canopy: 26.5%
Preserved Canopy: 0.0%
Required Canopy: 15.0%
Mitigation: Required; \$5,500 into the Tree Escrow Account

Parks: The Parks Recreation Advisory board recommended taking money-in-lieu of land to meet the

parkland dedication requirements for the proposed residential condominiums.

**Table 2 (Current Proposal)
Divinity Large Scale Development**

Use	Type of Unit	Amount of Unit	Parking Ratio (1 space per ratio)	Parking w/out Reduction	Parking w/25% Hotel Accessory Use Reduction	Parking Required
Proposed New Structure Parking Requirements						
Hotel	# of guestrooms	77	1	77		77
Condo/Hotel	# of units (all 1-bedroom units)	60	1	60		60
Condo (8 one-bedroom and 8 two-bedroom)	# of bedrooms	24	1	24		24
Hotel Restaurant (street level)	square feet	5,212	100	52	39	39
Hotel Bar (street level)	square feet	1,567	50	31	24	24
Restaurant (rooftop)	square feet	8,510	100	85		85
Bar (rooftop)	square feet	1,250	50	25		25
Hotel Lobby Bar/Lounge	square feet	1,862	50	37	28	28
Hotel Offices	square feet	2,076	300	7	5	5
Hotel spa/fitness	# of occupants	20	4	5	4	4
Hotel banquet hall/meeting rooms	# of occupants	657	4	164	123	123
Retail	square feet	6,452	250	26		26
Warehousing	square feet	8,676	2,000	4		4
Total Parking Required						524
Minimum Parking at 30% Under Required						367
Total Parking Provided						380
Parking Credit for Existing Structures Onsite						
Office	square feet	4,592	300	15		15
Retail	square feet	1,300	250	5		5
Single Family Residential	# of houses	3	2	6		6
Total Parking Credit						26
PARKING DEFICIENCY						+39

Commercial Design Standards: It is the responsibility of the Zoning and Development Administrator to interpret the Unified Development Code, regarding Commercial Design Standards. A proposed commercial building "Should provide compatibility and transition between adjoining development...in construction and appearance." Building height undeniably affects the appearance of a building; therefore the official interpretation as has been applied historically, is that building height is to be considered, among other things, by the Planning Commission when determining if a project is compliant with these standards. At the time of Subdivision Committee review of this project the total height proposed was 225 feet, with 15 stories on a portion of the property. Staff did not find these elevations to be compatible and meet Commercial Design Standards. With a 2-1 vote,

the Subdivision Committee also found that this project did not meet Commercial Design Standards, and recommended denial as presented.

A 9-story, 115-foot structure, at a lower elevation on Dickson Street (approximately 50' lower), was recently approved, only with the developer being required by the Planning Commission to reduce height, utilize materials and design approach that transitions from surrounding, traditional architectural style, fitting into the context of the site in terms of massing and pedestrian scale along the street. Staff found similar issues to be addressed with this proposed structure, though the uses proposed fit very well into both existing zoning and to proposed Downtown Zoning Code.

Staff has met with the applicant and architect multiple times, explaining our recommendations to decrease the overall building height and work with the design of the structure to provide more compatibility and transition to adjoining development. Staff is willing to work with the applicant to bring the proposed structure into what we find to be compliant. However, at the time of publication of this report staff has not received fully revised building elevations. Staff is anticipating revised building elevations to be presented by the applicant at the Planning Commission meeting. In discussion with the applicant, the maximum height has decreased considerably, and issues of compatibility with regard to scale have been addressed. The preliminary elevations thus far have decreased the overall height, as well as stepped the greater heights back from Dickson Street. Staff recommends evaluating the final building elevation revisions prior to making a recommendation to the Planning Commission.

THE SUBDIVISION COMMITTEE FORWARDED THIS ITEM TO THE PLANNING COMMISSION WITH A RECOMMENDATION FOR DENIAL (03/30/06) WITH A VOTE OF 2-1.

Recommendation: Staff recommends evaluating the final building elevation revisions prior to making a formal recommendation to the Planning Commission for LSD 06-1997 with the following issues to address:

1. Planning Commission determination of Commercial Design Standards and compatibility with the surrounding commercial developments. *At the time of publication of this report, the applicant has not submitted revised building elevations to the Planning Division for a full and thorough review. The following recommendation is based on the 225' height, 15-story building that was presented to the Subdivision Committee on March 30, 2006.*

Staff finds that the proposed building elevations do not meet architectural design standards for commercial structures with regard to compatibility and transition in appearance to adjoining properties. Staff recommends the building height be stepped back from the street, finding that a reduced height (3-4 stories) at the street level would be more compatible with surrounding, lower-story development on the two-lane Dickson Street, Block Avenue, and Church Avenue. A stepped-back design would provide a transition so that the street front is on a pedestrian scale, using materials that are also on a more pedestrian scale. Staff also finds that more attempts to reduce the overall height are warranted. No other structure on Dickson Street approaches the elevation and height of this particular proposal, creating difficulty in transition and compatibility. The elevations do, for the most part, exhibit a variety of materials and articulation. It appears that the design has avoided:

- (1) Unpainted concrete precision block walls;*
- (2) Square, "boxlike" structures;*

- (3) Metal siding which dominates the main façade; and
- (4) Large out of scale signs with flashy colors.

Staff recommends evaluating materials on all sides of the structure, pulling similar colors and materials from surrounding businesses on Dickson Street. Staff also finds that the building needs additional articulation on the south façade that will be visible from public right-of-way, incorporating some of the elements utilized elsewhere in the building on this very visible façade.

In a review of preliminary revised elevations presented to staff by the applicant, many of these issues have been addressed. Materials and design features such as brick, glass, concrete, balconies, overhangs, terraces, outdoor dining and deck areas have been incorporated. The structure has been stepped back from the Dickson Street façade primarily, with a four-story elevation at this level. The structure then steps back before going higher. The 'tower' feature as originally presented has been omitted. An overall building height is proposed at 9-10 stories for a portion of the building.

At this time, staff requests public input and Planning Commission discussion regarding the proposed revisions to the building elevations, including height, scale, and compatibility; however, without a thorough evaluation prior to this report being published, staff anticipates being able to make a formal recommendation with regard to the final building elevations at the Planning Commission meeting.

Other Conditions of Approval:

2. Planning Commission determination of street improvements. A professional evaluation of traffic movements and intersections in the vicinity was provided in writing (see attached). Based on the information provided and the project proposed, staff recommends the following street improvements:
 - a. Left turn lane at the light at Dickson Street/St. Charles with adequate stacking distance to be approved by the City Engineer.
 - b. A minimum of 10' sidewalk along all street frontages, and details (color, brick, etc.) to match Dickson Street improvements.
 - c. Newly constructed sidewalks along Block Avenue south to Spring Street, to match those on Dickson Street. The applicant shall coordinate with staff to facilitate these improvements.
 - d. Street lights (matching Dickson Street lights) along all frontages, as needed.
3. Planning Commission determination of a waiver for driveway width. The southern driveway exit onto Block Avenue is 16.3' in width. This is a one-way driveway which requires the aisle width to be no more than 15'. Staff recommends in favor of the requested waiver finding that the additional 1.3' feet requested would not cause adverse impacts to traffic movement or traffic safety.
4. Planning Commission determination of a waiver for driveway curb radii. Driveway curb radii are required to be 25'. The applicant requests the following waivers of this requirement:
 - a. The northern driveway exit onto Church Avenue has a 20' curb radius on the northern curb.
 - b. The northern driveway exit onto Church Avenue has a 15' curb radius on the

- southern curb.
- c. The southern driveway exit onto Church Avenue has a 10' curb radius on the northern curb.
- d. The northern driveway entrance on Block Avenue specifies a curb radius on the southern curb of 10'.
- e. The southern driveway exit onto Block Avenue specifies a curb radius on the northern curb of 10'.

Staff finds in favor of the requested curb radii finding that the requested curb radius are suitable in this urban setting with limited space to provide the full 25' on all driveways.

5. The plans shall be revised as follows:
 - a. The plat shall have two points on the boundary described in State Plane Coordinates, Arkansas North Zone, North American Datum 1983 (NAD 83).
 - b. The plat shall have a point-of-beginning from a permanent well-defined reference point clearly labeled on the drawing.
 - c. The plat shall be revised to be consistent with the information presented on the building elevations regarding the building height, number of stories. In addition, the plat currently has conflicting information stating different numbers of condo and hotel units.
 - d. Revise the parking table on the site plan to eliminate the 25% reduction for the retail use and roof top bar that are not considered to be accessory uses to the hotel.
 - e. A minimum of six bicycle racks shall be included in an appropriate area outside of the right-of-way. These bicycle racks shall be depicted on the plans.
6. Right-of-way dedication in accordance with the Downtown Master Plan street standards as dimensioned on the submitted large scale development plat for Dickson Street (Main Street with minimum of 55' right-of-way), Church Avenue (ST-40 with a minimum of 40' of right-of-way), and Block Avenue (Main Street with minimum of 55' right-of-way) along the project frontages.
7. The plans indicate trees to be planted along the project frontage with approximately 30' between trees. These plantings shall match the Dickson Street Improvements with approval of the species to be coordinated with the City's Urban Forester. Tree grates shall be provided for the protection of planted trees. A detailed landscape plan shall be submitted at the time of building permit.
8. The proposed street tree plantings will require structured soil. A note should be added to the landscape plan indicating as such. Structured soil is required to be installed prior to the sidewalks. Coordinate with the Urban Forester prior to construction.
9. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
10. Mitigation will be required to replace 9,252 square feet of tree canopy removed. On-site

mitigation is not an option for this project due to the site constraints. A check in the amount of \$5,500 shall be deposited with the City before issuance of a building permit. The money will be deposited into the Tree Escrow Account. These funds will be used to plant trees in the vicinity of this project.

11. Payment of Park fees in the amount of \$33,012 for 84 multi-family units shall be paid prior to issuance of a building permit.

Standard Conditions:

12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
13. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. Ground mounted equipment separate from the structure may be screened using large grasses or shrubs. A note shall be added to all construction documents stating as such.
14. All exterior lighting will be reviewed for compliance with the City's lighting ordinance at the time of building permit. A lighting plan and manufacturer's cut-sheets of the proposed fixtures shall be submitted by the applicant and approved by Planning Staff as part of the building permit review.
15. Trash enclosures shall be screened with access not visible from the street. The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
16. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Signs are not allowed to be placed in utility easements.
17. 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.
18. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
19. Large scale development shall be valid for one calendar year.
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.
 - c. Separate easement plat for this project that shall include the tree preservation

- area and all utility easements.
- d. Project Disk with all final revisions.
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions:

Planning Commission Action: ☐ Approval ☐ Denial ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: April 24, 2006

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



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: March 31, 2006
Subject: Applicability of Commercial Design Standards to Height

As required by the Unified Development Code, the code under which the Planning Commission operates to approve or disapprove applications that are required to be submitted for review, certain projects are subject to §166.14 *Commercial Design And Development Standards*. More specifically, §166.14 (D) *Design elements guidelines for commercial structures* contains the criteria by which staff and the Planning Commission reviews a project to determine if it is indeed compliant with these provisions. One of the provisions has been debated in recent Planning Commission meetings, with regard to height. The following is excerpted from that ordinance:

§166.14 (D) (2) *Construction and appearance design standards for commercial structures.*

(c) A development should provide compatibility and transition between adjoining developments.

The interpretation of this section of the Unified Development Code, by ordinance, is not left to the Planning Commission or City Council; rather, the interpretation of a zoning or development ordinance is delegated to the Zoning and Development Administrator. That interpretation is a final interpretation, and can only be appealed by the owner of record to the Board of Adjustment.

With regard to the question of "Can building height be considered as part of commercial design standards?", the official interpretation is yes, building height can be considered as part of the Planning Commission's review of **Commercial Design and Development Standards**, in determining whether the proposed building provides appropriate compatibility and transition between adjoining developments. It should be noted that this subsection falls under the heading "Construction and appearance design standards for commercial structures." The height of a building certainly affects its appearance and subsequently its compatibility and transition, or lack thereof, between adjoining developments. The Unified Development Code does designate height limitations within certain zoning districts, most commonly within multi-family residential districts. Instead of a strict limit within other districts, it is left to the Planning Commission to determine whether a proposed building meets the applicable criteria set forth in the Unified

Development Code, including Commercial Design and Development Standards.

In contrast, the use of a property should not be considered to determine compatibility and transition, if that use is already allowed by right within the zoning district where the building is proposed to be located. If a zoning district allows a use by right, the Planning Commission may not deny an application for large scale development based on a finding of lack of compatibility or transition between the proposed use and adjoining developments.

Recent questions of the application of commercial design standards differently in various parts of the city have also arisen. The criteria of Commercial Design and Development Standards are to be applied to property owners uniformly. However, determining transition and compatibility in a review of the appearance of a proposed building are inherently tied to the context of the environment in which a building is located. For example, the compatibility and transition of a commercial building within the Industrial Park will likely be very different than the compatibility and transition of a building near a residential district, or within an office park, or within the downtown. These applications are to be fairly and justly applied to projects within the city as a whole, and should take into account the surrounding environs.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Fayetteville Planning Commission

From: Andrew Garner, Senior Planner

Date: April 17, 2006

ITEM #: LSD 06-1997 (Divinity)

Applicable Requirements:

X	Off-Street Parking
X	Commercial Design Standards
X	Buffers and Screening
	1-540 Design Overlay

Plan Checklist:

Y = submitted by applicant

N = requested by city

NA = not applicable

Preliminary Submittal	Final Submittal	
		Off-Street Parking and Loading
NA		wheel stops / curbs
NA		irrigation
NA		edged landscape beds indicated
N		species of plant material identified
N		size of plant material at time of installation indicated
NA		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)
NA		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)
N		soil amendments notes include that soil is amended and sod removed

Y		mulching notes indicate mulching around trees and within landscape beds.
Y		planting details according to Fayetteville's Landscape Manual
Preliminary Submittal	Final Submittal	Commercial Design Standards
NA		greenspace adjacent to street R.O.W. (15' wide)
Y		street trees planted every 30' L.F. along R.O.W.
NA		outdoor storage screened with landscaping
		Buffer Strips and Screening
NA		landscaped area (12' min.)
NA		fence required
NA		outdoor storage screened with landscaping
NA		non-residential landscape screen when adjacent to residential zones
NA		landscape requirement for setback reduction
		Overall District Requirements
NA		greenspace adjacent to street R.O.W. (25' wide)
NA		street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscaped)
NA		parking lots and outdoor storage screened with landscaping

Recommendation: Approval of the landscape plan associated with LSD 06-1997 with the following conditions.

Conditions of Approval:

1. The plans indicate trees to be planted along the project frontage with approximately 30' between trees. These plantings should match the Dickson Street Improvements with approval of the species to be coordinated with the City's Urban Forester.
2. The proposed street plantings will require structured soil. A note should be added to the landscape plan indicating as such.
3. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.



PC Meeting of 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 4, 2006

ITEM # LSD 06-1997: Large Scale Development (Divinity Hotel & Condo)

Requirements Submitted:

T	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area:	
acres	1.41
square feet	61,680.96
Existing Tree Canopy:	
acres	0.37
square feet	16,361
percent of site area	26.5%
Existing Tree Canopy Preserved:	
acres	0
square feet	0
percent of total site area	0%
Percent Minimum Canopy Required:	15%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site is 26.5% canopy covered. Very few trees on the site are significant and most are in fair to poor condition. The site currently**

has several buildings and houses with drives. There are two fence row of trees on the southern portion of the property. These trees are in poor shape, covered with vines while several are thorny locust species.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation will occur minimally on the site. Green space and canopy cover will be removed and replaced by a large impervious area.**

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 should not affect the adjacent property owners.**

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 poor.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **All trees will be removed for the construction of the structure.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **All trees will be removed.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **N/A**

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 9,252 square feet of canopy removed. The site will not allow for on-site mitigation.**

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 Condition of Approval.**

Conditions of Approval:

- 1. Mitigation will be required to replace 9,252 square feet of canopy removed. On-site mitigation is not an option for this project due to the site constraints. A check in the amount of \$5500 shall be deposited with the City before issuance of a building permit. The money will be deposited into the Tree Escrow Account. These funds will be used to plant trees in the vicinity of this project.**

ORDINANCE NO. 4854

**AN ORDINANCE TO WAIVE § 166.17 SUSPENDING ISSUANCE
OF PERMITS PENDING ZONING AMENDMENTS IN
RELATION TO THE PROPOSED DIVINITY CONDOS PROJECT**

WHEREAS, § 166.17 SUSPENDING ISSUANCE OF PERMITS PENDING ZONING AMENDMENTS prohibits issuance of a "permit for the erection of any building or structure, or permit for the conduct of any use" for 90 days following submission of the zoning amendment to the Zoning and Development Administrator; and

WHEREAS, the City Council believes waiver of this 90 day delay period is in the public interest during the consideration of the Large Scale Development process of the Divinity Condos project (corner of Dickson and Block); and

WHEREAS, the City Council does not, by passage of this waiver of §166.17, indicate its support, approval, opposition or rejection of this project.

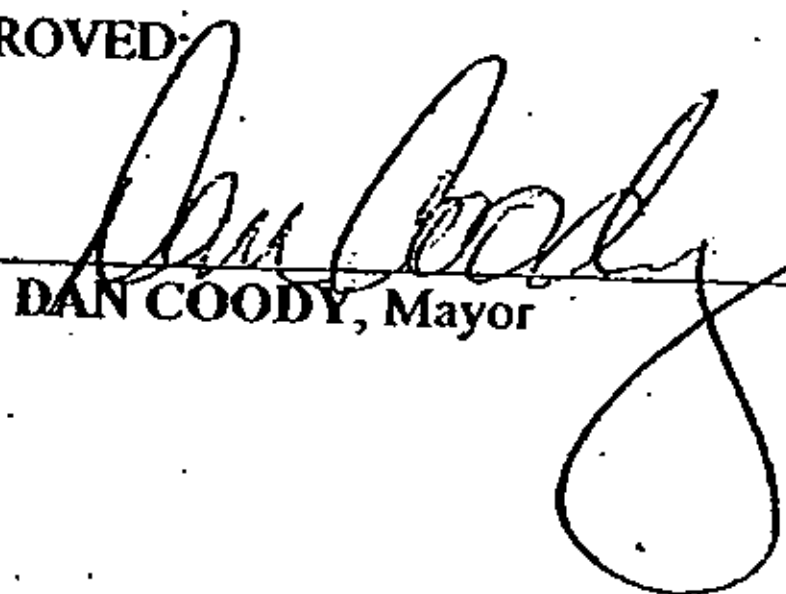
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the provisions of §166.17 of the Unified Development Code so that the normal consideration and permitting process may move forward for the Divinity Condos project located on the block between Church and Block Avenues at Dickson Street without any 90 day delay period.

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

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk





THE CITY OF FAYETTEVILLE, ARKANSAS

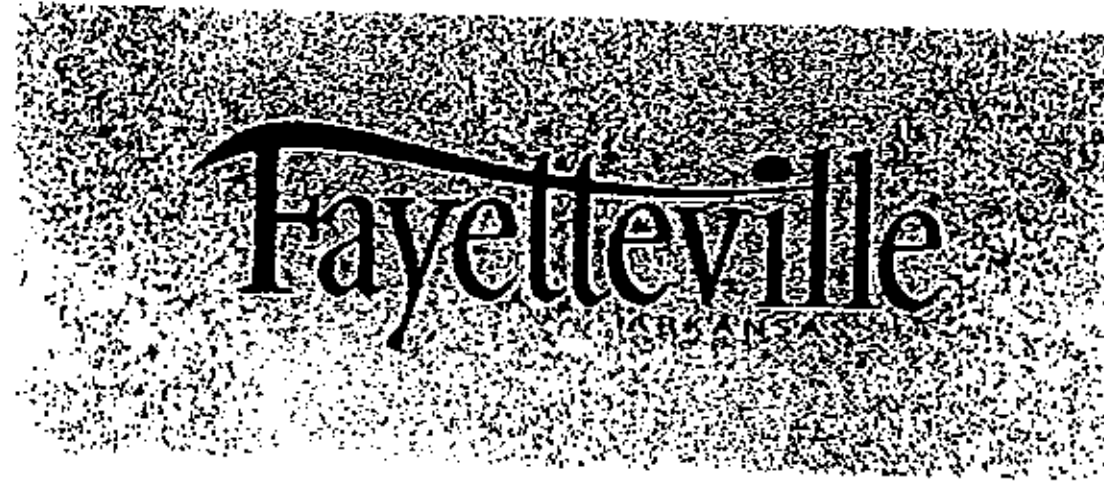
PLANNING DIVISION CORRESPONDENCE

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

To: Mayor Dan Coody
Fayetteville City Council
From: Jeremy Pate, Director of Current Planning
Date: March 14, 2006
Subject: Suspension of Permits Pending Zoning Amendments

On February 12, 2006, the Planning Division filed an official recommendation to refer to the Planning Commission an adoption of zoning amendments to the Unified Development Code. The amendments were advertised in accordance with city codes, and action was taken by the Planning Commission on February 27, 2006. The Planning Commission has recommended to the City Council a new zoning code for the downtown area identified within the Downtown Master Plan, and is deliberating a map associated with these codes and districts. These amendments are proposed to create a Downtown Zoning Code and new zoning district map, in accordance with the Downtown Master Plan as adopted by the City Council in 2004.

Pursuant to Ch. 166.17 of the Unified Development Code, staff may not issue any permits for structures, buildings or uses in the area concerned (the Downtown Master Plan boundary) that would be prohibited otherwise for a period of 90 days following the matter being referred to the Planning Commission. This memo is to call attention to the City Council that any request submitted to the Planning Division or Building Safety Division within the Downtown Master Plan boundary will be suspended for that period of time, to end on May 13, 2006, unless the City Council takes final action on the question within that time. To my knowledge, there are two requests that are affected by this proposal; each applicant will be notified immediately.



Date: 3/7/2006

From: Clyde Randall
GIS Office
444-3431

PLAT REVIEW CHECKLIST:

Re: Divinity

Hansen Number: 1997

Comments: Closure OK. POB not labeled on drawing. See checklist.

Items Needed (if checked):

1. ☒ Each plat shall have 2 points on the boundary described in State Plane Coordinates, Arkansas North Zone, North American Datum 1983 (NAD 83).
2. ☐ Written legal descriptions that read clockwise, including area in square feet or acres. This shall be provided on the plat. (Note: If the project covers more than one tract, the legal for each individual tract and a total tract description must be provided.)
3. ☐ Boundary survey of the property shown on the plat. The surveyor shall seal, sign and date the survey. The survey shall be tied to State Plane Coordinates (see item #1).
4. ☒ Point-of-Beginning from a permanent well-defined reference point. This POB shall be clearly labeled on the drawing.
5. ☐ Curve data for any street or line which forms a project boundary (preferably radius, length of curve, chord distance and bearing).
6. ☒ Provide a CAD file of project to the GIS Office upon final approval.

Note: Items are taken from application and code requirements.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

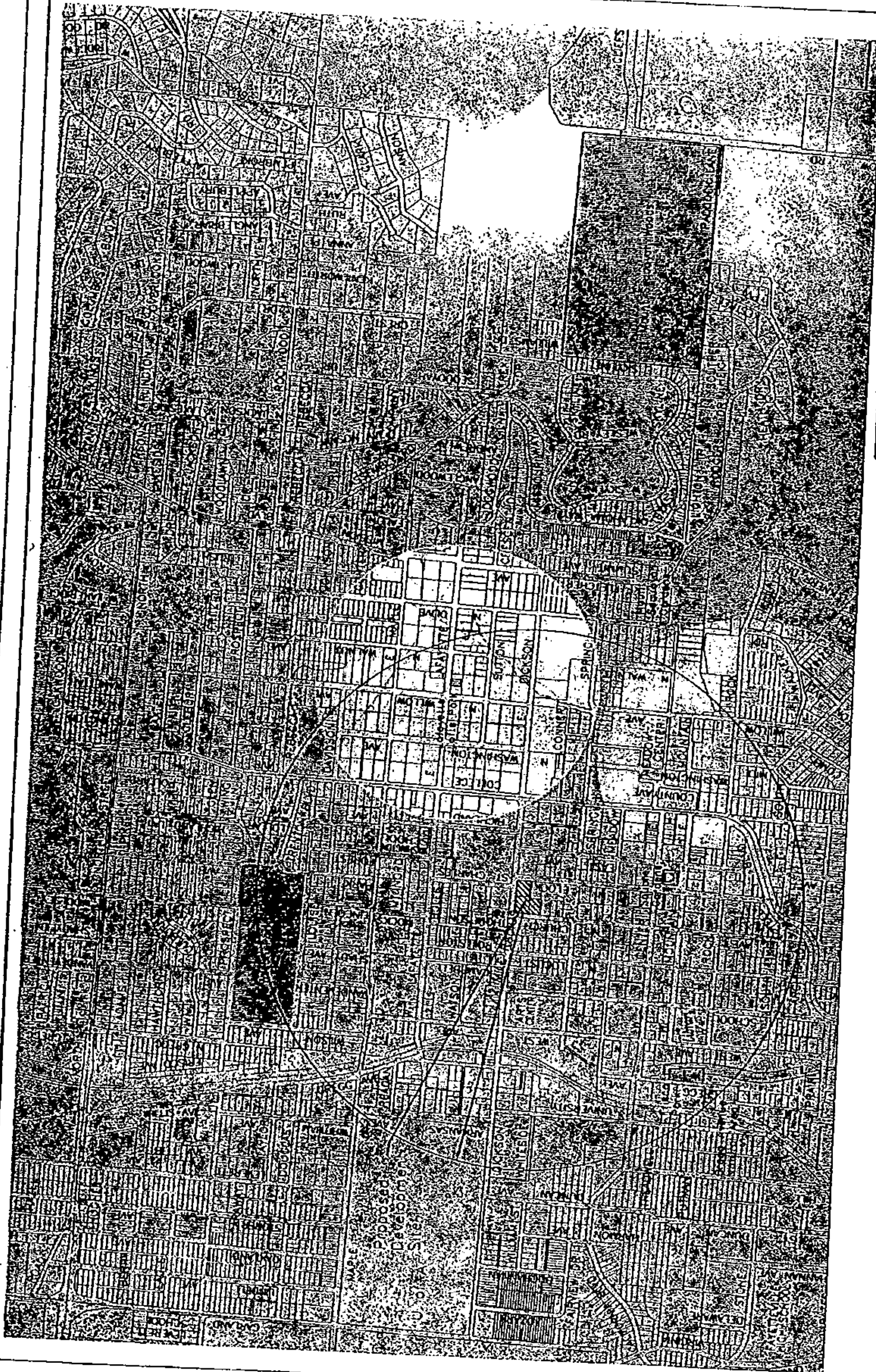
TO: Andrew Garner, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: March 28, 2006
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: March 30, 2006
Item: LSD 06-1997 Divinity Hotel and Condos
Park District: SW
Zoned: C-3
Billing Name & Address: Lynnkohn, LLC

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	83 @ \$393 per unit = \$32,619
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- On March 6, 2006 PRAB recommended accepting money in lieu to meet the Park Land Dedication requirements for this development.
- Square Gardens, Wilson Park and Frisco trail are within a half mile of this development and will serve the recreational needs of the residents. Additionally, the developer will provide amenities such as a fitness room and swimming pool for the residents.
- Fees are due before building permit will be issued.

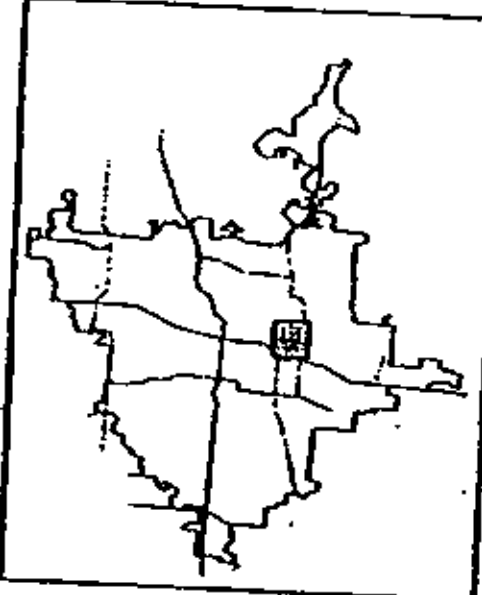


Divinity



Legend

-  Existing Park Land
-  Community Park Service Area
-  Neighborhood Park Service Area
-  Mini Park Service Area



PROXIMITY MAP

Divinity

Barber Group



March 5, 2006

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

ATTN: PLANNING STAFF
RE: DIVINITY LARGE SCALE DEVELOPMENT

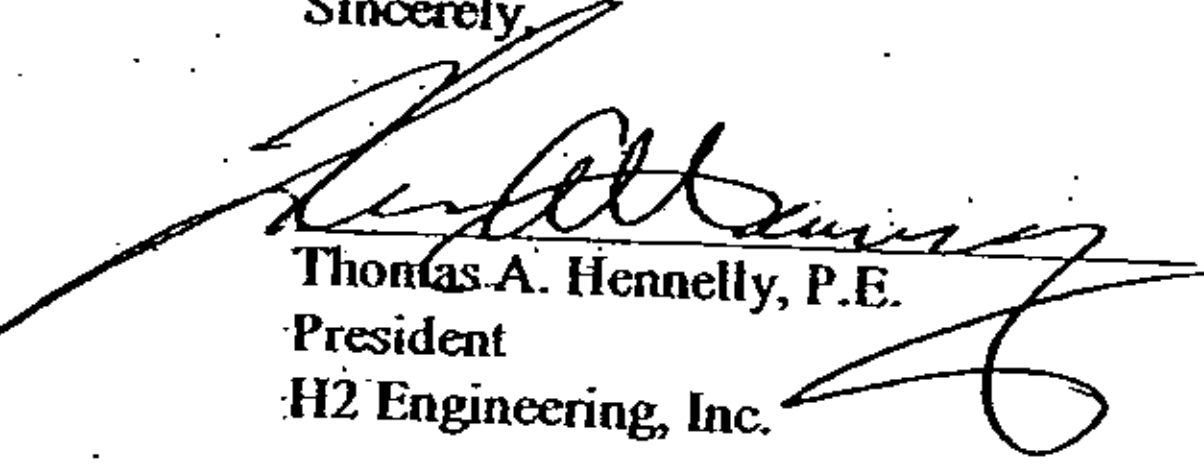
Dear Staff,

We are submitting the attached large scale development called Divinity for your review. This project is approximately 1.42 acres and is located on the south side of Dickson Street between Block and Church Streets. The project consists of a 15 story multi-use building which covers approximately 97% of the project site. The primary function of the structure will be a 137 room boutique hotel with some condominium units, retail space, a restaurant, and a bar. Included in the structure are the normal amenities associated with a hotel such as, pool area, fitness facility, ballroom, and banquet/meeting facilities. Parking for all these uses will be contained onsite with an integrated parking structure. The square footage of each use is listed below:

Restaurant – 2775 sq. feet
Retail – 13,333 sq. feet
Meeting space – 12,945 sq. feet
Banquet – 41,312 sq. feet
Razor Deck – 10,945

Please feel free to call if you have any questions or comments.

Sincerely,



Thomas A. Hennelly, P.E.
President
H2 Engineering, Inc.

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**LSD98-2.00: LARGE SCALE DEVELOPMENT - HMT OF FAYETTEVILLE
HMT OF FAYETTEVILLE - N OF DICKSON, E OF ROLLSTON, W OF THOMPSON**

The last item on the agenda was a large scale development submitted by Glenn Carter of Carter Engineering on behalf of HMT of Fayetteville, L.L.C. for property located on the north side of West Dickson Street, east of Rollston and west of Thompson. The property is zoned C-3, Central Commercial, and contains approximately 1.13 acres. A parking waiver has been requested in regard to this project.

Mr. Reynolds advised he would be abstaining since he was a property owner on Dickson Street.

The staff report showed the proposed project would total 58,709 square feet with commercial usage at 34,017 square feet and residential usage at 24,692 square feet and a two-story parking deck with 109 parking spaces. The proposed construction will envelope the existing two restaurants (ROTC and The Grill) and the restaurants will remain open and in use.

The following waivers have been requested by the developer:

(1) Street widths and rights-of-way:

- a. Rollston. The developer requests the existing 28 feet of right-of-way and 20 feet of pavement be left as is. Staff agrees with this request.
- b. Dickson. The existing right-of-way is 55 feet. Dickson Street is shown on the Master Street Plan as a collector with a required right-of-way of 70 feet. The developer requests the existing right-of-way be kept at 55 feet. Staff agrees with this request. Formal action by the City Council is required for the deviation from the Master Street Plan.
- c. Thompson. The existing right-of-way at this location is 15 feet. The developer has proposed to add 5 feet of right-of-way on the west side for a total of 20 feet of right-of-way. The developer also proposes to construct a 21-foot street and 6-foot sidewalk the length contiguous to the project to the entrance into the parking deck. This will place approximately 4 feet of the street and the sidewalk on private property. Staff agrees with the request to increase the right-of-way and pavement width. Staff requests that the right-of-way be extended to include all of the paved street.

(2) Parking:

The developer requests a waiver of 38 parking spaces. Staff disagrees with the developer's calculations and states that the waiver should be for 73 spaces.

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(3) Other Variances:

Requests for variances from building setbacks for awnings, brackets, balconies, etc. will go to the Board of Adjustment.

The staff has requested the applicant provide a shared access agreement with Terry Hunt, the property owner on the northwest corner.

Conditions of Approval:

1. Planning Commission determination of compliance with Commercial Design Standards. (A decision must be made under Section 160.124(D)(2)(c) "A development should provide compatibility and transition between adjoining developments.")
2. Planning Commission determination and resolution on the requested street improvements and/or right-of-way width waivers:
 - a. Rollston. The developer requests the existing 28 feet of right-of-way and 20 feet of pavement be left as is.
 - b. Dickson. The existing right-of-way is 55 feet. Dickson Street is shown on the Master Street Plan as a collector with a required right-of-way of 70 feet. The developer requests the existing right-of-way be kept at 55 feet.
 - c. Thompson. The existing right-of-way at this location is 15 feet. The developer has proposed to add 5 feet of right-of-way on the west side for a total of 20 feet of right-of-way. The developer also proposes to construct a 21-foot street and 6-foot sidewalk the length contiguous to the project to the entrance into the parking deck. This will place approximately 4 feet of the street and the sidewalk on private property.
3. Planning Commission determination and resolution of parking issues and requested waivers.
4. 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 and all improvements shall comply with City's current requirements.

Planning Commission
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5. Fire protection shall meet the Fire Chief's requirements which will include reconfiguration of the existing fire hydrant to the 12-inch water main on Dickson. Further, depending upon the final design, an additional fire hydrant may be required within 100 feet of the Fire Department's connection to the building's sprinkling system.
6. Sidewalk construction in accordance with current standards and the right-of-way as available. Greenspace provided (if any) shall meet the requirements of the Sidewalk & Trails Coordinator and the Landscape Administrator.
7. All existing and proposed utilities shall be placed underground.
8. Large Scale Development approval to be valid for one calendar year.
9. Plat Review and Subdivision comments (to include written staff comments mailed to the applicant or his representative, and all comments from utility representatives).
10. Prior to the issuance of a building permit, the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 159.34 "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.
11. Shared access agreement from Terry Hunt, the property owner to the northwest.

Background:

The proposed large scale was heard at the December 31, 1997 Technical Plat Review, the January 15, 1998 Subdivision Committee meeting and the February 12, 1998 Subdivision Committee meeting. Parking, street right-of-way and improvements and effects upon adjacent property were discussed. The Subdivision Committee voted to send the proposed large scale to the full Planning Commission with the recommendation to accept the street waivers and without a recommendation for the parking waivers.

Infrastructure:

Water and sewer. Water and sanitary sewer mains are available for the developer's engineer to use in designing extensions.

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Grading and Drainage. A formal, final drainage report and grading plan will be required prior to any construction.

Mr. Forney advised the Commission needed to discuss the right-of-way and parking since both were waivers. He asked if there were any other conditions of approval with which the applicant was not in agreement.

Mr. Greg House, representing HMT, appeared before the Planning Commission and stated they were in agreement with all other conditions. He advised the right-of-way issue had been discussed at length at the Subdivision Committee meetings. He stated that, while the Master Street Plan required Dickson Street to be 70 feet wide, the existing right-of-way was only 55 feet wide with existing buildings up to the edge of the right-of-way line. He further stated the new structures would be within the setbacks and would not be encroaching with the exception of the second story above the two restaurants. He also pointed out Rollston Avenue was less than minimum street standards and they had discussed the ability of fire and safety vehicles to serve the subject property and adjoining property. He noted Rollston had been recently improved and he believed it was wide enough for an emergency vehicle. He advised the Fire Chief had, after driving a truck through the area, approved the width. He further stated Thompson had been designed to the same width as Rollston for the same reasons. He noted that, by adding to the right-of-way, they had lost approximately 10% of their Dickson Street frontage. He pointed out the existing Thompson north of the subject property was extremely narrow.

He contended the big issue was how to feed the traffic ingressing and egressing from the proposed development.

Mr. Forney stated the staff agreed with all the waivers for right-of-way.

Mr. House explained that, when the property was purchased for development, he and his partners had relied on the ordinance in making their feasibility study. He stated they had believed they would not have to provide any parking for existing structures because of the way the ordinance was worded on parking in a C-3 zone. He stated that, in an effort to move the project forward, they had agreed to count in their calculations the number of parking spaces required for the existing restaurants (approximately 20 spaces). He explained they had treated it as a completely new project since there was no guidance in the ordinance. He then read from section 160.117(D)(1): "...parking requirements shall be met at the time any building or structure is erected, enlarged, or increased in capacity, changed in use..." He went on to read (1)(a): "...new construction, razed buildings or enlarged buildings shall conform to the parking requirements of the city. For enlarged buildings, additional parking spaces will be calculated by the amount of square footage that is added." He pointed out the parking ratio table and stated they estimated the parking on maximum retail use and maximum restaurant use. He noted the parking ratio for restaurants was shown as 1 for 200 square feet of floor area.

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Mr. House stated the square footage for Restaurant On The Corner and The Grill required 20 parking spaces. He contended that, if the buildings were demolished, and constructed new buildings with the exact same square footage, only 20 parking spaces would be required. He explained the conflict between the developers and staff was how to count parking for the existing buildings. He also advised they were asking for a 38 space waiver but would be using shared parking for the site (set out under Section 160.117(E)(4)). He contended that, since the project was a mixed use project, they could share parking with themselves. He advised there was nothing in the ordinance restricting them from using parking spaces during the day for retail and using the same spaces at night for residential. He also presented a letter from University Baptist Church allowing the use of 50 church parking lot spaces. He also contended there would not be a \$1,200 fee per parking space since they did have shared parking for the 38 spaces.

Charles Britton, professor of economics at the University of Arkansas, appeared before the Commission and advised he had attended the Master Planning session at the university earlier in the day and the university was in favor of the project. He further stated he, personally as a professor of economics, was in favor of the project, contending it would assist in the revitalization of Dickson Street. He did, however, express concern regarding view obstruction of Old Main.

Lamar Pettus, property owner of 151 West Dickson, pointed out there was a movement afoot through the Downtown Dickson Street Enhancement Project, to ask the city to reduce the right-of-way of Dickson Street to 24 feet. He asked the Commission to be careful on how they handled the parking. He also advised the Commission had received a letter from the Dickson Street Improvement District and wanted to be sure they understood that was from the Commission, not the individual Dickson Street property owners. He pointed out Mr. House was one of the Commissioners for the Dickson Street Improvement District and would have been one of the people authorizing the letter. He also noted the Improvement District had not called a meeting of the members. He asked the Commission to not include the letter in their considerations. He also advised that, if the Commission waived the parking places for the subject project, they would need to do the same for future projects on Dickson Street.

Charlie Allison, an area property owner, appeared before the Commission and stated his property was on Thompson and Watson. He pointed out Thompson was a very narrow street and expressed concern people using the facilities of the proposed project would be using that street.

Michael Thurmond, an adjacent property owner, contended the Commissioners needed to consider the impact to adjoining property. He pointed out they could widen the portion of Thompson adjacent to the project but then Thompson still would narrow to one lane past the project. He stated he believed Mr. House had presented a good development but he was concerned regarding traffic flow.

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In response to a question from Mr. Forney, Mr. Thurmond suggested closing Thompson to the north of the project as a solution to the problem.

Richard Shewmaker, 605 W. Dickson, appeared before the Commission and expressed hope the parking waiver be granted. He expressed his believe the university was the most important economic, social and cultural function in northwest Arkansas. He told of a previous survey that showed most people within the City of Fayetteville wanted to improve the area around the campus. He contended the current project would improve the area. He reminded the Commission they had alleviated the parking problem on Dickson Street by changing the ordinance relating to parking in the Dickson Street area. He pointed out the new establishments after the ordinance was changed, contending Dickson Street was now a better place.

He asked the Commission to approve the project with the parking waiver granted. He also pointed out this would be a major contribution to the tax structure. He also informed the Commission Mr. House had an investment backer which would be very important to Dickson Street.

Ms. Jana Britton appeared before the Commission and contended she had problems finding places to park in the Dickson Street area. She advised there would be people parking where they shouldn't if parking spaces were not provided.

Joe Fennell, owner of Jose's, appeared before the Commission and contended all property owners on Dickson have learned to share parking. He stated he was in favor of the proposed project.

Celia Scott-Silkwood, 221 N. Locust, spoke in support of the project but did agree parking was becoming a problem. She noted she no longer could park in front of her house but had to use the public parking lot.

Cyrus Young stated he owned property 443 feet from the proposed project. He contended the project was out of scale with the rest of the area. He reminded the Commission residents of Fayetteville had consistently asked for preservation of the character of Fayetteville; compatibility had even been placed in the land use plan and the commercial design ordinance. He advised the proposed project, if approved, would significantly alter the character of Dickson Street. He stated he had heard people express a desire to maintain neighborhood integrity and that applied on Dickson Street as well as other areas of town.

He pointed out the proposed development was larger than the Walton Arts Center. He stated he could not believe the building would ever be compatible with the rest of Dickson Street. He contended the project did not meet the ordinance and asked the Commission to deny the approval of the large scale development.

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Mr. Young went on to ask that, if the Commission approved the project, they deny the parking waivers so the building might come closer to the scale of other structures on Dickson Street. He agreed with Ms. Silkwood that, when the parking lots were full, the parking overflowed into the residential area. He also contended that, if the waivers were approved, someday people's homes would be condemned for commercial parking.

He stated the Planning Commission had always said there was a need for planning, a need for compatibility, a need for good design, a need for compliance with ordinances. He advised all of those words would have been for nothing if the project were approved.

Ms. Little stated there were two issues on the project, the first was under the commercial design standards: "A commercial structure or development shall be designed to avoid or minimize the elements set forth in D (1) above" (unpainted concrete precision block walls, square 'boxlike' structures; metal siding which dominates the main facade; large blank, unarticulated wall surfaces; and large out of scale signs with flashy colors). She advised the development did meet paragraph D(2)(a). She then read D(2)(b): "A commercial development which contains more than one building should incorporate a recurring, unifying and identifiable theme for the entire development site." She stated there was a theme to the development. She then read D(2)(c): "A development should provide compatibility and transition between adjoining developments." She showed a site plan of the existing buildings in the area. She stated the existing buildings on site were approximately 4,800 square feet; the proposed project would be approximately 58,000 square feet or 10 times the size of the existing property. She advised one of the newspaper articles stated the project was approximately the size of the Walton Arts Center.

Ms. Little then advised that, with regard to parking, she believed it was a matter of interpretation. She stated staff had no disagreement with the developer regarding the additional square footage and the parking planned for the addition. She did point out staff had been calculating restaurant parking differently than set out in the ordinance; instead of 1 space for every 200 square feet of floor space, staff calculated one space for every four seats plus one for each employee per shift. She explained this change had been made at the request of restaurant owners throughout the City who believed 1 space for every 200 square feet was not adequate. She stated the discrepancy with the developer for parking on existing buildings had come about from the parking ordinance which said in C-3 and C-4 districts parking requirements were waived for any existing structure with a change of use. She contended there was no change of use. She advised there were 55 existing spaces for the two restaurants.

She advised the Commission staff had applied a number of tests to determine if the 55 spaces were excessive parking. She pointed out the calculation for the number of seats in the restaurants - 49 spaces plus 1 for each employee (30 employees for the two restaurants). She stated any new restaurant anywhere else in town would require 79 spaces. She stated staff had reviewed the 1994 aerial photographs (taken at approximately 10:00 a.m.) and calculated there were 55 spaces

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on site. She pointed out the number of cars parked in the restaurant lot. She also advised staff had taken photographs in the area on how parking was utilized. She stated staff took the photographs on Friday afternoon at approximately 5:30 and again at noon on Saturday and again at noon on Monday. She noted the parking lot was not full during those times; however there were more on Friday evening than at noon on Saturday and Monday.

Ms. Little stated the Commission would need to make interpretation of the following section: 160.117(D)(1)(a): "Parking requirements are waived for any existing structure with a change of use...For enlarged buildings, additional parking spaces will be calculated by the amount of square footage added." She advised that, for the amount of square footage being added, 127 parking spaces were required; the applicant proposed 109. She went on to say staff believed the 55 spaces currently in existence were necessary to service the restaurants. She expressed her belief the ordinance granting the ability to give waivers was a generous gift on the part of the City in order to encourage rehabilitation of existing buildings on Dickson Street. She advised that, if they were only talking about renovation, there would not be a parking issue; but it was the addition of new square footage that was causing the issue. She asked the Commission consider the effect on renovation -- what effect from a commercial standpoint would the new commercial square footage have on the renovation of the rest of Dickson Street; and what is the effect of the proposed building on adjacent residential properties.

She reminded the Commission that one of their goals in the 2020 Plan was to promote affordable housing, particularly in the downtown area. She advised the living units proposed in the project were not affordable housing. She contended it was significant that area property owners would be experiencing development pressure were already having their quality of life was being affected. She agreed there was a need for renovation and economic development on Dickson Street but asked how much was too much.

Mr. Tucker stated he had reviewed the Historic Downtown Commercial area of the 2020 Plan and found the overriding goal for the area was to encourage commercial development and retain the historic character and to encourage denser residential development. He advised the guiding principles were to continue the revitalization of the historic downtown commercial area and enhance it with evening businesses; encourage the continuation of the revitalization of Dickson Street and provide a sense of connection between Dickson Street and the Square; encourage retail use of ground floor space and restrict office and residential use to higher floors.

Ms. Little stated she believed the two existing restaurants were a part of the street scape of Dickson Street and she applauded the efforts to preserve them. She further stated she believed the residential units above the retail areas was in keeping with the General Plan. She further advised she believed the facade of the building did improve the streetscape; however the height of the building was of concern.

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Mr. Forney asked if Mr. House had a signed joint access agreement with the adjoining property owner.

Mr. House stated he did have a copy of a signed joint access agreement.

Mr. Forney stated they had not been using the parking requirements in C-3 and C-4 areas due to the changes in ordinances. He reminded the Commission they had considered applications for waivers of parking spaces in light of adequate public parking within 600 feet of the proposed development. He stated he did not see that specific language in the code book but did see under 160.117(E)(3) and (5) the following: "Off-site locations. If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on the other property not more than 600 feet distant from the principal use, subject to conditional use approval by the planning commission." He stated that apparently did not apply since the applicant was not asking for a conditional use.

Ms. Little advised that applied to property owned by the applicant or under contract to the applicant. She noted the 600 feet also appeared in "Intermittent parking" for places such as churches who could count available on-street parking within 600 feet. She pointed out that the applicant had brought a letter for shared parking from the University Baptist Church. She noted the letter did not specify a length of time in terms of a lease.

Mr. Forney asked about the in lieu fee of \$1,200 for each on-site parking space waived which was to be paid to the city. He asked if that was an option.

Ms. Little stated the applicant could pay the in lieu fee or find adequate public parking facilities available within 600 feet from the entrance of the structure. She also pointed out section (H) Parking Waivers which said the Planning Commission shall making findings indicating the proposed use would not generate as much parking as required under the existing standards; that shared parking was available; or on-street parking could satisfy intermittent and occasional demands.

Ms. Hoffman stated that, in other cities which allowed shared parking, a traffic impact analysis was either required or completed by the applicant which was much more detailed than the information before the Commission. She further stated the analysis included hours of operation, number of vehicle trips per day, etc. She advised she would be looking for more detailed information.

Mr. Watkins contended the project was the type they should embrace rather than obstruct; that there should be more incentives for infill and mixed use project such as the proposed project. He added his belief it was commendable the private sector was willing to invest money without tax breaks, etc. that other cities had to encourage this type of project.

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He further advised the relevant language in the parking ordinance said: "For enlarged buildings, additional parking spaces will be calculated by the amount of square footage added." He contended that was what the developer had done; however, the staff was inserting a phrase that was not in the ordinance "For enlarged buildings, additional parking spaces *in addition to those currently existing to serve the site* will be calculated by the amount of square footage added. He advised that was a huge change in the ordinance and he did not believe it possible to interpret the ordinance in that fashion. He also pointed out the ordinance did not treat restaurants any differently than any other business and calculated parking at 1 space for every 200 square feet of floor area; not 1 per every 4 seats plus one for each employee. He stated a fair reading of the ordinance and a fair calculation of the parking spaces support the applicant's position.

Mr. Watkins further stated it appeared the applicant was short 38 spaces but, with the shared parking arrangement for 50 spaces with the church, the requirements of the ordinance had been met. He contended the applicant should not be penalized for not tearing down existing buildings or not building at the edge of town.

He also advised that, while the ordinance required a development should provide compatibility and transition between adjoining developments, it did not mean the same; otherwise, there could never be any change, everything would have to be one story on Dickson Street. He noted the City of Fayetteville did not have a height ordinance; however, they might consider enacting some type of height ordinance.

Mr. Watkins stated he was in favor of the project.

Ms. Little stated it was her responsibility to interpret the ordinances and she had given such interpretation to the Commission. She reminded the Commission of other projects when the same interpretation was made.

Mr. Estes asked if the shared parking was within 600 feet of the proposed development.

Ms. Little stated the measurement, as shown on the aerial photograph, was measured from the front of the Restaurant On The Corner. She stated it appeared, if the measurement was taken from the back of the project, the parking would be within 600 feet.

Mr. Estes stated he believed there was ambiguity in the ordinance relating to the waiver of parking spaces. He pointed out that, to grant either the 38 parking spaces claimed by the applicant or the 73 parking spaces claimed by the staff, to achieve either result the Commission had to make certain findings under the ordinance: (1) that the proposed use would not generate as much parking as required under existing standards; (2) that shared parking facilities are available; or (3) that on-street parking could satisfy intermittent and occasional demands. He advised he was concerned with the first finding; that he was not sure it was true. He continued that, while

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the applicant had presented a letter of shared parking, there was no termination date to the letter and he did not believe on-street parking could satisfy intermittent and occasional demands. He also pointed out the residents using the University Baptist Church parking lot would not vacate the parking spaces on Saturday night or Sunday morning. He advised he was struggling to satisfy the requirements of the ordinance and was very much inclined to not grant the waivers, irregardless of how they were computed.

Mr. Forney stated part of the developer's interpretation was there was shared parking within the project.

Mr. Estes stated that also led to some ambiguity. He further stated the developer had suggested making an agreement with himself to share among himself so he could satisfy a shared parking requirement. He advised he understood the mixed use but it appeared the developer would have to ask a resident to move his care so a restaurant patron could park.

Ms. Hoffman agreed with Mr. Watkins that the Commission wanted to encourage development on Dickson Street but did not believe they could tell developers to build on 100% of the lot and not carefully consider parking.

Ms. Johnson advised she too was concerned about the scale of the project. She added she believed the scale was much of what drove the parking concerns. She expressed her belief the project was too massive for too small a space. She also advised they could not ignore the fact that the project would have a negative impact on the parking situation.

Mr. Tucker stated they were facing risks: (1) too few parking spaces and (2) driving off an investor who was willing to spend five million dollars on Dickson Street. He expressed his belief that driving an investor off of Dickson Street was greater than not having a few extra parking spaces.

Mr. Watkins stated the ordinance said the Commission shall have the authority to make the waivers on certain findings -- not all three findings. He pointed out there was a shared parking agreement so the ordinance was satisfied.

Mr. Forney stated he was one of the Commissioners who had served on the subcommittee which encouraged the waiving of the parking rules on Dickson Street in 1995. He advised he understood Mr. Estes' concerns regarding making findings. He thanked the staff for their clear interpretation of the parking spaces; but there were few people objecting to the project, saying Dickson Street would be ruined because of parking. He further noted restaurant parking was still in the ordinance as 1 space per 200 square feet of floor area. He advised he believed there was the potential to make a finding that the shared parking with U.B.C. and the prospect of internal sharing, it did meet the parking requirements. He also contended the project contained the first

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double level parking space proposed by the private sector and believed it was the solution for situations like Dickson Street. He stated it did not appear there was controversy regarding the right-of-way issues. He further advised he believed the project was compatible with Dickson Street.

Ms. Little read the following shared parking agreement: "To Members of the Planning Commission: Subject to the restrictions stated below, the University Baptist Church will allow tenants, visitors and employees of HMT's proposed mixed use project at the 200 block of Dickson Street to park 50 cars on the church's parking lot at Lafayette Street and Campbell Avenue at any time with the exception of Sundays, all day, and Wednesday evenings after 4:00 p.m. However, this shared parking shall be restricted to use of only residents or office patrons, tenants and employees. Use by patrons, tenants and employees of retail space shall be limited to those businesses that do not use or sell alcohol as any part of their business. This shared parking arrangement will have no conflict with our current parking needs." Signed by Gary Smith, University Baptist Church.

Mr. Estes stated that, in order to make the finding the shared parking was satisfactory, the Commission had to find the individual spaces identified on a site plan for shared users was not being shared by more than one user at the same time. He expressed his belief the developer could not enforce the parking agreement with U.B.C.

MOTION

Mr. Forney moved to approve LSD 98-2 acknowledging the following: the waivers for street widths and right-of-way on Rollston, Dickson and Thompson Streets as detailed in the staff report be granted and that the Thompson Street right-of-way include approximately 4 feet of street as requested by the staff so that the Thompson right-of-way include all of the paved street; that the parking waiver for 73 spaces be granted in light of the shared parking agreement with U.B.C. and acknowledging the use of different tenants and patrons in relationship to retail and residential needs on site; that the commercial design standards be recognized as being met by the project; and that a joint access agreement signed by a neighbor be provided as required in the conditions of approval; and that all other staff conditions of approval be included.

Mr. Tucker seconded the motion.

Ms. Johnson asked if the waiver of the 73 parking spaces was at the set rate of reimbursement.

Mr. Forney stated that, as he understood Section 160.117(H)(1) the in lieu fee of \$1,200 for each space would be paid or for any parking space proposed to be shared under the provisions of 160.117(E)(4) the fee was waived. He pointed out the applicant had a shared parking arrangement for 50 spaces, leaving 23 spaces. He went on to say he would assume the remaining

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23 spaces would be covered by the sharing of the spaces between the residential use and retail use.

Ms. Johnson asked if the motion then was to waive any contribution in lieu.

Mr. Forney stated it was.

The motion carried 5-2-1 with Commissioners Hoffman, Forney, Watkins, Ward and Tucker voting "yes", Commissioners Estes and Johnson voting "no" and Commissioner Reynolds abstaining.

Mr. Tucker advised he would like the Commission to meet with the Dickson Street Enhancement Project to determine their vision for Dickson Street.

The meeting adjourned at 8:30 p.m.

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**AD99-26: ADMINISTRATIVE
H.M.T., PP484**

This item was submitted by Greg House on behalf of H.M.T. Development Company, L.L.C. for property located north of Dickson Street and west of Rollston Street. The property is zoned C-3, Central Commercial, and contains approximately 1.13 acres. The request is to add a 5th story to the building by adding 1,264 square feet and to modify the building elevation.

Robert Sharp and Greg House were present on behalf of the request.

Staff Recommendation

Staff recommended approval of the proposed fifth story penthouse and revisions to the building elevations as shown on the submitted drawings.

Commission Discussion

Johnson: This project is known as the Three Sisters project. This was approved by the Commission in February of 1998. It has been before us another time for some revisions and now it is back again. We toured this project at agenda session on Thursday, October 21, 1999. We tried to get a sense of how much higher this building will be if the penthouse is allowed. We were told 17 to 19 feet higher than the highest steel structural part that we can now see. Tim, you asked the architect to bring us some drawings to show us what this change would add in height and to get an idea of the total size which is what is displayed here tonight.

Conklin: The additional area has been highlighted on the elevations here before you. The drawings are also in the 11x17 booklet which was distributed with your agenda. We have also provided an addendum tonight consisting of 3 pages which has a photograph of the existing development depicting the exposed steel and the dimensions of the proposed penthouse. When we were on tour, there were questions about where the addition would be from the existing steel. Please refer to page 2 of this packet. The proposed structure will extend 17.5 feet from what is existing now.

Sharp: I'm the architect for this project. The issue is the height of the existing steel structure relative to our proposed addition. What we are proposing is approximately 19 feet. That is the point of the highest ridge and it is 52 feet back from the street at that point.

Shackelford: I will be abstaining from voting on this vote.

Johnson: Thank you.

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Hoffman: In our original discussion of the elevations of the building, there were several members of the public who brought up the view of Old Main from Dickson Street. As you are driving down Dickson Street, will this penthouse be in that sight line.

Sharp: This is a fairly small addition. There might be a brief moment that Old Main might be obstructed. Generally, it will set back a good distance from Dickson Street.

Public Comment

None.

Further Commission Discussion

House: I am the developer of the property. The pictures don't show the full scale of the project. We're only proposing to add a 30x30 square foot area. This wouldn't be a detriment to the project's height at this scale. We think this is a nice addition that will add value to the property and is in keeping with the original architectural theme. I appreciate your consideration.

MOTION

Ward: I feel like the Three Sisters project on Dickson Street is a real boost to the whole street and this minor addition is not going to affect the view or anything else. This could have been 20 stories tall. Staff is recommending approval. I move that we approve AD99-26.

Odom: I'll second.

Johnson: We have the motion by Commissioner Ward and the second by Commissioner Odom to approve the 5th story penthouse on this project. Is there discussion of the motion?

Conklin: The record needs to reflect the following comment from the Inspection Division:

"An appeal from the technical provisions of the building code must be made to the Construction Board of Adjustments and Appeals and a variance granted before the 5th floor addition can be permitted."

They have been working with our Inspections Division and Inspections must have the approval before this can be permitted.

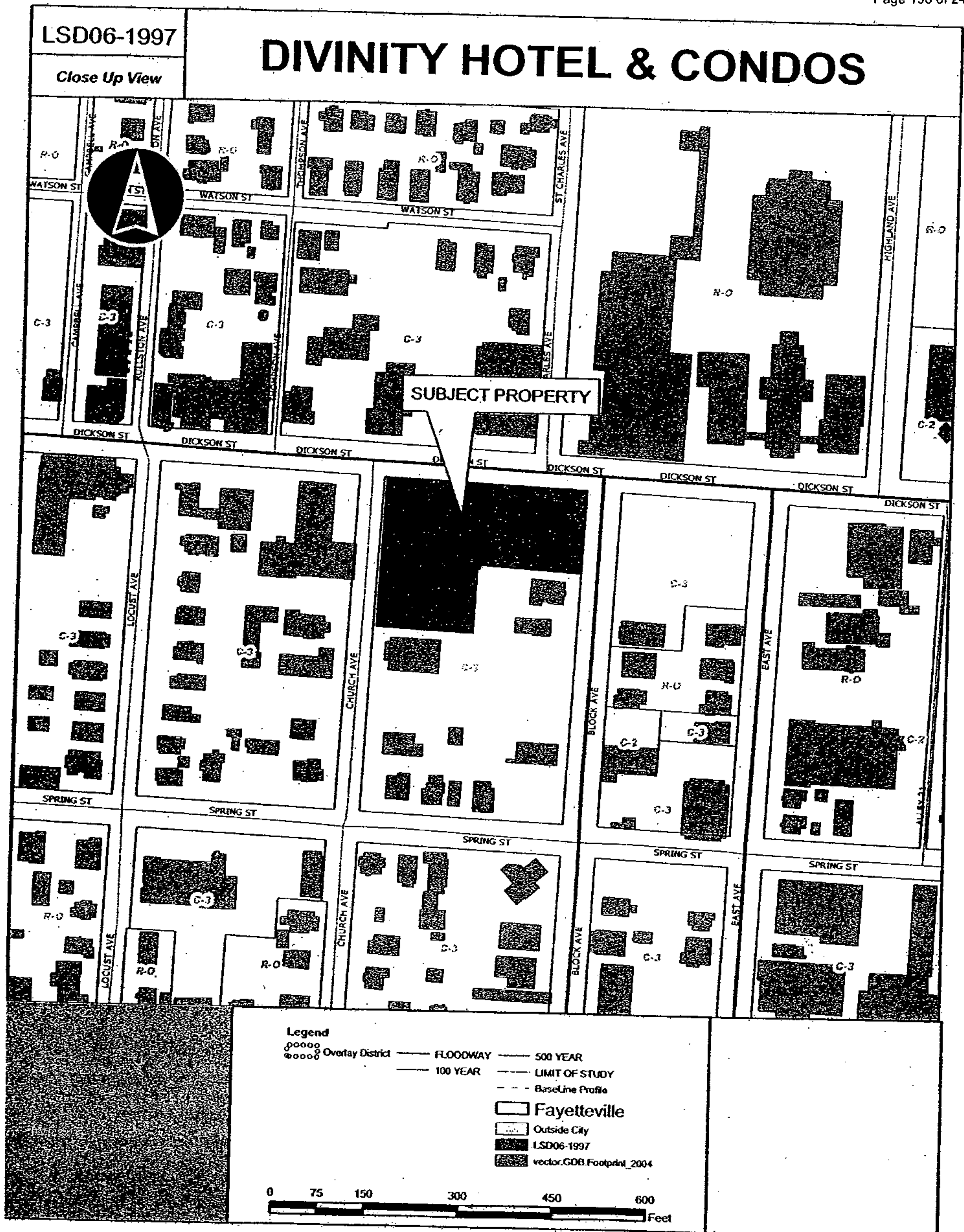
Johnson: I do have a concern about the height of the building. I originally was concerned about the scale of the building in that location and driving by and looking from the nearby parking lot on Thursday, I do think that the problem for me is whether or not the building is

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compatible and if there is compatible transition between the adjoining developments. That is my concern. I believe the project is oversized for that particular location. There are plenty of places in Fayetteville where it would not be oversized. The building is obviously very attractive. I think this is more building than the site warrants on Dickson Street. For that reason, I would oppose the motion.

Roll Call

Upon roll call, the motion passed with a vote of 7-1-1. Commissioner Johnson voted against motion and Commissioner Shackelford abstained.



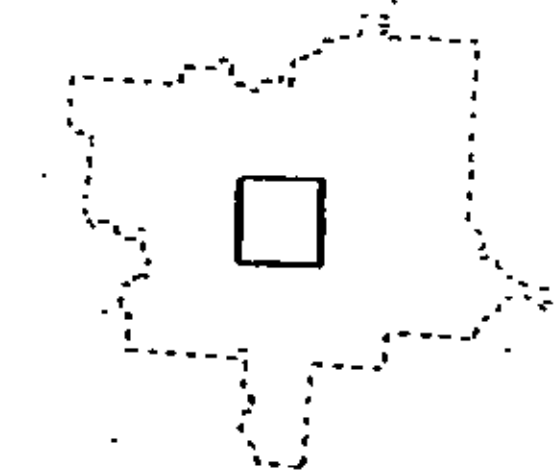
LSD06-1997

One Mile View

DIVINITY HOTEL & CONDOS



Overview



Legend

Subject Property

LSD06-1997

Boundary

Planning Area

Overlay District

Outside City

0.0 0.125 0.25

0.5

Legend

0.75

1

Miles

ATTACHMENT B

PUBLIC COMMENT

**B-1 Sign-In Sheet for Verbal Comment at April 24,
2006 Planning Commission Meeting**

**B-2 Written Comment Received by Staff (Includes
Additional Comments Received After April 24,
2006 Planning Commission)**

ATTACHMENT B-1

SIGN-IN SHEET FOR VERBAL COMMENT
April 24, 2006 Planning Commission Meeting

**Divinity Large Scale Development
April 24, 2006 Planning Commission Meeting
Public Comment Sign-In Sheet (In Order)**

No.	Name	Comment	
		For	Against
1	Dot Neely		X
2	David McGrady	X	
3	Ann O'Leary Kennelly		X
4	John Williams		X
5	Cyrus Young		X
6	Mark Kinion		X
7	Don Chaney	X	
8	Tom Brown		X
9	Lan Davis	X	
10	Jim Rahland	X	
11	Ryan Ouyoumjian	X	
12	Steven Hinds	X	
13	Bill Ramsey	X	
14	Joann Kauzmee		X
15	Nate Allen		X
16	Glenn Sorder	X	
17	Sharon Davidson		X
18	Joe Fennel	X	
19	Brittany O'Dare	X	
20	Scott Bowman	X	
21	Jim Mitchell		X
22	John Dortch	X	
23	Russell Razinsky	X	
24	Clinton Bennet	X	
25	Matt Griffith	undecided	
26	Julie Dorrowski		X
27	Neil Crawford		X
28	James Anderson	X	
29	Patrick Brosch	X	
30	Mark Blackwell	X	
31	Marsha Britendon		X
32	Karen Reiss		X
33	Larry Palmer	X	
34	Benjamin Dye	X	
35	Elane Richard		X
36	Lee Scarlet	X	
37	Fran Alexander		X
38	Jim Smith	X	
39	Louise Kramer		X
40	Michael Shirkey		X
41	Mark McQueen	X	

Comment Highlights
Comments For: • Economic benefit • Parking provided • Visionary project • Pedestrian improvements • Growth is inevitable • Meets demand for hotel • Compatible with eclectic Dickson Street Comments Against: • Building height is too tall • Incompatible with surrounding area • Environmental concerns • Out of scale • Inconsistent with Downtown Master Plan • Out of character • Lack of human scale

Disclaimer: This sheet has been compiled from Planning staff's handwritten notes at the meeting and has not been checked or reviewed for accuracy with the audio or visual recording of the meeting.

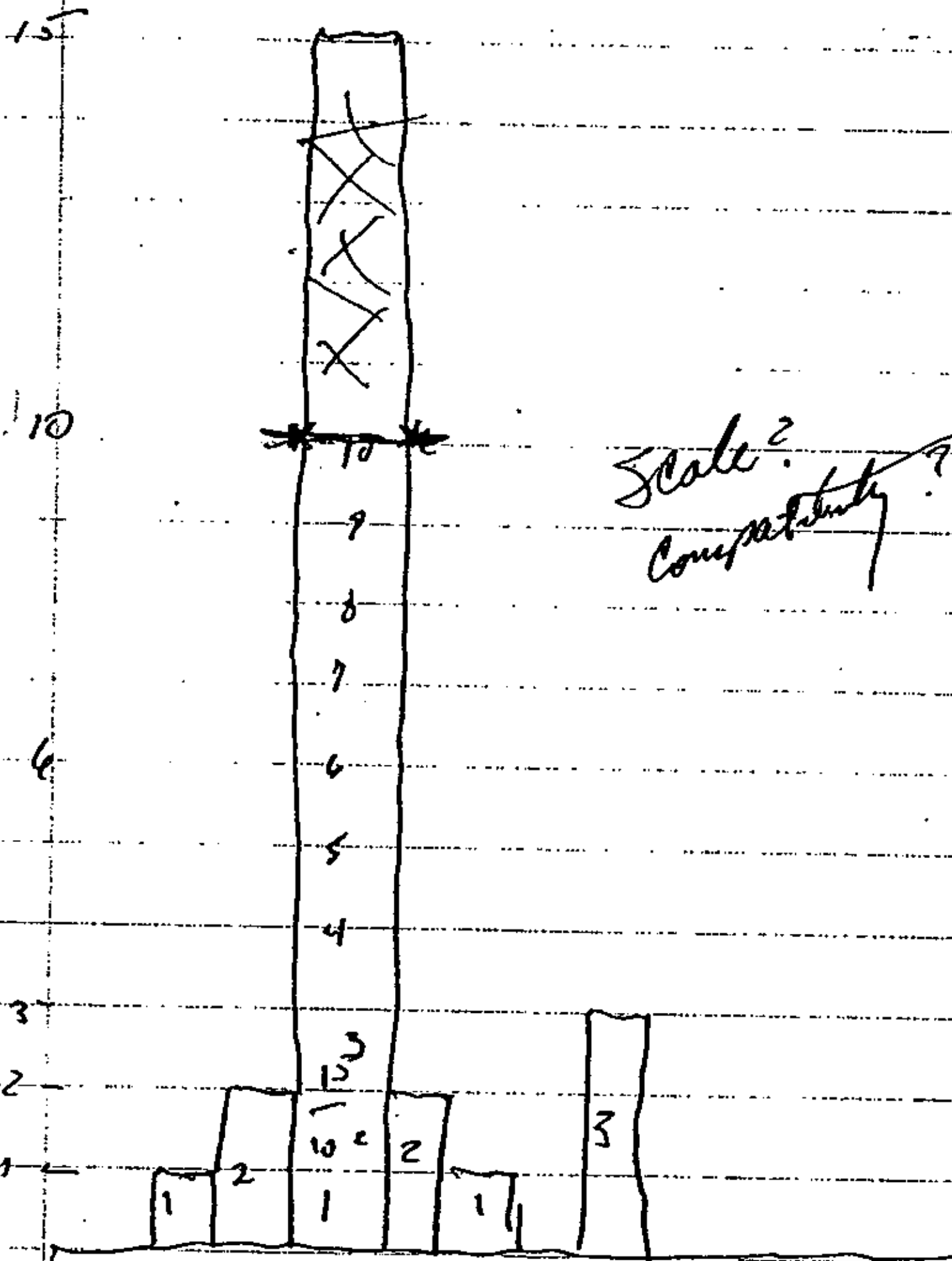
ATTACHMENT B-2

WRITTEN COMMENT

**All Written Comment Received by Staff (Includes
Additional Comments Received After April 24,
2006 Planning Commission)**

Planning Commission
April 24, 2006

- SUBMITTED BY PUBLIC MEMBER
AT PC 04.24.06



April 27, 2006

Dear Commissioner Jill ANTWERP:

I attended the April 24th meeting of the Planning Commission re: the issue of the Divinity Building. I urge you to reject the developer's plan as it now stands. This 10 story structure will overwhelm the entire area. It is not in sync with the flavor or character of Dickson Street or surrounding area.

The project's supporters point to the already approved nine story building and the 16-18 story hotel that will replace the old Mt. Inn. I continue to wonder how these proposals ever passed. While growing up I often heard the expression "two wrongs don't make a right", and it still holds true today.

Please insist on the structure's coming down in height. Its style is very cold and austere. I liked one person's suggestion Monday night that something comparable would be more acceptable off the downtown - Dickson Street area. Take a look at the Embassy Suites on 54th. It is 9-10 stories in height. It gives one some idea of what Divinity will look like on this 1.4 acre lot.

I hope that all of you will carefully deliberate this issue at Monday night's meeting and not bow to pressure by the developers. It was clear that they had stacked the room with their cohorts and supporters on April 24.

Let's try to maintain the character of downtown Fayetteville.

Katherine M. Sigafos
Fayetteville

Sincerely,
Katherine M. Sigafos
KATHERINE M. SIGAFOS
2689 HARBOY LN
FAYETTEVILLE AR 72703

25 April, 2006
904 E. Rodgers Dr.
Fayetteville, AR 72701

Planning Commission, City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Ladies and Gentlemen:

I watched some, but not all, of the public comments about the proposed "Divinity" project in the Planning Commission meeting of April 24, 2006, on public access TV. Despite the admonishment from the Chairwoman to avoid economics in the discussion, it seemed to me that the comments favoring the proposal revolved around economics. I concluded this long before my wife, Sharon Davison, spoke, and I must second her comment that this talk of "growth" is speculation. I am not pleased that several speakers were allowed to rattle on about commerce, rising from the rubble, etc, while others, who attempted to address the hidden costs that we all know the city would be liable for, were cut off.

Of course economics are an issue in a development of this magnitude. What do the Chamber of Commerce folks mean by "growth"? Do they mean more trailer parks for the Mexicans who will surely do most of the minimum-wage jobs this project would create? Or do they mean growth of their own bank accounts? Who will pay for the improved streets so cars may reach their parking garage? Who will pay for the larger sewer pipes and other infrastructure this building will require? Will the city have to buy the building in 40 years, as we did the old Mountain Inn?

Apparently city staff has concluded that the balance is negative, so please follow their recommendation and turn this excessive project down. As Mr. Allen pointed out, Austin seems to be thriving without massive downtown buildings.

Rick Belt



4/24/06

Tim Conklyn

Dear City Administrators and Planning Commissioners:

In considering some of the projects presently approved or proposed for Downtown Fayetteville, it is important to review some of the more recent city history from the late 1960's up to present.

In the 1970's, City Planners and administrators overreached their grasp with their vision of converting the quaint Fayetteville Square into a "Modern Corporate Center". Because of this mindset and the development of the NW Arkansas Mall, downtown shops which lined the perimeter of the Square either went out of business or relocated. A few of the former Fayetteville Square businesses that I can remember are J.C. Penney, Hunts Department Store, Campbell-Bell, Lewis Brothers Hardware, Clinens' Drug, Woolworth, & J. Cole Menswear, and Guisinger Music. Within the last year or so Café Santa Fe, Hog City Diner, Sodie's, & McRoy-McNair Office Supplies also went out of business.

After the exodus or demise of local businesses, The Bank of America, which occupies and dominates the entire east side of the Square, the "new" McIlroy Bank (now Arvest) on the northwest corner of East and Center Streets, the center for Continuing Education on the northeast corner of East and Center Streets, the Hilton (now the Radisson), and the E.J. Ball buildings were constructed.

The great influx of corporate players which was expected never occurred to the degree promoters of the establishment of the Downtown Fayetteville Financial District claimed it would. We are poised to repeat this episode from our past if we do not take into account lessons history holds for us.

In retrospect, Fayetteville would have been much better served if the decision makers of the day had chosen to preserve the 19th century structures which graced the square and to establish the corporate business/shopping complex outside "Historic Fayetteville" in the NW Arkansas Mall area.

The Downtown/Dickson Districts could have retained the old & eclectic shops, restaurants, residences, & rental flats. The "damage" has long been done, however, and the precedent was set for multi-storied construction around the square, but other locations within the historic districts need not be so altered.

The view shared by many Fayetteville residents is that it is possible to increase commercial and residential usage density in historic areas of Fayetteville without constructing buildings of enormous scale. Expansion and new construction driven by the influx into NW Arkansas of approximately 1000 individuals per month need not require a sacrifice of the historic places unique to OUR HOMETOWN.

Any "HIGH-Profile" construction would be more appropriately sited in closer proximity to the Fayetteville Square outside the Historic Districts, in the vicinity of the NW Arkansas Mall, as well as, along Joyce Street and the I-540 Bypass, for example.

Adaptation alternatives to accommodate exponential growth can be implemented which will allow for increased density while maintaining the character of the older portions of our communities. Such an approach takes a LOT of foresight and some very intelligent, creative planning as was done by Dover Kohl & Partners with Fayetteville community input. These types of efforts prove to be more than worth it over time.

Please proceed carefully in your consideration of policy and projects which have the potential to dramatically alter the fabric of this community for the present and future generations. Our city should grow sensibly and practically, not in haste due to pressure of developers pressing to have projects approved before the Fayetteville Downtown Master Plan with its recommended scale and height restrictions goes into effect.

Respectfully, Dot Neely/Fayetteville Resident 1972 to date

Dot Neely

From: "Victoria Sowder" <vsowder@beta-rubicon.com>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 9:28 AM
Subject: Divinity --

Untitled Stationery Good morning --

I'll admit it: I was appalled by the original 15-story Divinity concept.

And I'll admit something else: I'm very impressed w/the way the developers pulled back and revised the project to be more in line w/the recently approved Underwood Lofts.

This is a big step for us -- for Fayetteville. There's a delicate balance between protecting free enterprise and being good stewards of a fragile environment (Downtown Fayetteville).

I'd like Divinity better if it were 9 stories, in keeping w/the genie-out-of-the-bottle approval of the Lofts project -- but I am in support the project at its current 10 stories.

Victoria Sowder
resident of Ward 1

Victoria Sowder
Administrative Manager
Beta-Rubicon, Inc.
21 W. Mountain, Suite 123
Fayetteville AR 72701-6064
Phone: 479.444.8118
Fax: 479.444.0089
www.beta-rubicon.com

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From: <hollybryan@cox.net>
To: <planning@ci.fayetteville.ar.us>, <city_clerk@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 10:37 AM
Subject: Planning commission: Monday, April 24 mtg.

Please forward the following to the members of the planning commission prior to tonight's meeting. Thank you for your time.

Sincerely,
Holly C. Bryan

Dear Commissioners:

I urge you to carefully consider the proposed Divinity development. While I believe in the rights to develop and the concept of in-fill, I feel it is vital to be responsible with development.

My definition of "responsible development" is designing and creating a project to be compatible with the existing buildings and surrounding areas. It is my opinion that the proposed Divinity building is neither compatible nor conducive to its surroundings. Please explain to me how the design of a 15-story chrome and glass building integrates with historic buildings of brick and mortar on Dickson Street.

I understand the struggle we all must be having; wanting to beautify our wonderful town while encouraging growth and enticing commerce while keeping the diversity and eclectic feel Fayetteville is famous for.

Please reject the Divinity project as it is proposed to you today for its incompatibility. Ask the developers to be responsible citizens and design a building that will blend and mesh with the current feel of Dickson Street.

Thank you for your consideration.

Holly Chadick Bryan
107 North Olive
Fayetteville, AR 72701
479-521-1473

From: denise wholey <dmwholey2@sbcglobal.net>
To: <dcoody@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 7:09 PM
Subject: Downtown Fayetteville

I am writing to ask that you please STOP this nonsense with the Barber Group (and ANY other developer). This decision to by-pass regulations and rules is exactly how the public loses faith in it's elected officials.

If I am not mistaken, the people of Fayetteville pay your salary Mayor Coody. Not developers like The Barber Group.

I have mentioned this to my Neighborhood Association and I will now pass it on to you..... I lived in Austin, Texas from the mid 70's through the early 90's. In the early 80's we went through "growing" the city as we are here in Fayetteville. It was exactly this type of "by-passing the rules" in favor of the dollar signs and development that sent Austin into a severe economic slump that took YEARS to resolve while (in my opinion) ruining the city of Austin forever. We (the citizens of Austin) were told we HAD to have all of this development to court the tech industry from Silicon Valley. They did not come until YEARS later, thus the city suffered.

I agree with the people when they have told you they want to retain the aspects of Fayetteville that make it the fabulous city that it is.

Denise Wholey
455 E Prospect St.
Fayetteville, AR 72701

CC: <planning@ci.fayetteville.ar.us>, <tconklin@ci.fayetteville.ar.us>, <dmarr@hr-factor.com>, <ward2_pos2@ci.fayetteville.ar.us>, <ward2_pos1@ci.fayetteville.ar.us>

From: "O'Leary-Kelly, Anne" <AOKelly@walton.uark.edu>
To: <ngallen@earthlink.net>, <planning@ci.fayetteville.ar.us>, <lconklin@ci.fayetteville.ar.us>, <dcoody@ci.fayetteville.ar.us>, <ward2_pos1@ci.fayetteville.ar.us>
Date: Wed, Apr 5, 2006 1:37 PM
Subject: Divinity project

I wanted to share my opinion regarding the Divinity Project proposed for Dickson Street. I am adamantly opposed to this project because of the proposed height of the building (15 stories). In my opinion, buildings of this height will fundamentally destroy the character of our beloved Dickson Street and the skyline of Fayetteville. This project does not fit with the recommendations of the community planning process we have worked so hard to undertake. It does not benefit the community at large. We should not sell out our city. In my opinion, this project does not even come close to something that is acceptable on Dickson Street. I strongly encourage the Planning Commission and the City Council to both oppose this development and to create some reasonable restrictions on building height (e.g., 5-6 stories).

Anne M. O'Leary-Kelly

William R. & Cacilia Howard Chair in Management

Chair, Department of Management

Sam M. Walton College of Business

University of Arkansas

Fayetteville, AR 72701

(479) 575-4566

FAX: (479) 575-3241

aokelly@walton.uark.edu

From: Art Hobson <ahobson@uark.edu>
To: Denise Greathouse <dgreatho@uark.edu>, Jake Adler <jadler@uark.edu>, Fran Alexander <fran@deane-alexander.com>, Nancy Allen <ngallen@earthlink.net>, Jill Anthes <janthes@uark.edu>, Fran Beatty <fbeatly@uark.edu>, Steve Beaupre <sbeaupre@uark.edu>, Dick Bennett <jbennet@uark.edu>, Jo Bennett <jobennett@sbcglobal.net>, Bob Billig <info@beadjeweler.com>, Chris <omniprotest@yahoo.com>, Tim Conklin <planning@ci.fayetteville.ar.us>, Dan Coody <dcoody@ci.fayetteville.ar.us>, Deborah Coody <dcoody@swbell.net>, Kyle Cook <jdseed@swbell.net>, Kathy Curtin <kcurtin@uark.edu>, Hester Davis <hadavis@uark.edu>, Hugh Earnest <hearnest@ci.fayetteville.ar.us>, David Edwards <dedwards@uark.edu>, Bill Etges <wetges@uark.edu>, "Fran B. Free" <franbfree@usa.net>, Matt Griffith <mgriff@uark.edu>, Lowell Grisham <lgrisham@arkansasusa.com>, Raj Gupta <rgupta@uark.edu>, "Dr. Bill Harrison" <wmharri@cox-internet.com>, Bill Harter <wharter@uark.edu>, Lynne Hehr <lhehr@uark.edu>, Pete & Margo Heinzelmann <petemargo@aol.com>, Darrell Henschel <dardedar@aol.com>, Barry Herzog <bardherz@sbcglobal.net>, Jim Jackson <jrjack@uark.edu>, Doug James <djames@uark.edu>, Lioneld Jordan <ljordan@uark.edu>, Paul Justus <paul@nwarpc.com>, Cindy Kalke <Cindy_Kalke@transplace.com>, Laura Kelly <bco@cavern.uark.edu>, Daniel Kennefick <danielk@uark.edu>, Julia Kennefick <jkennef@uark.edu>, Coralie Koonice <livanlern2002@yahoo.com>, Doug Krueger <thinknogod@aol.com>, Richard Lee <rlee@uark.edu>, Mike Lieber <mliieber@uark.edu>, Jiali Li <jialili@uark.edu>, Steve Luoni <sluoni@uark.edu>, Jack Lyons <jclyons@uark.edu>, Walt Manger <wmanger@uark.edu>, Rick McKinney <mckinneyinsuranc@aol.com>, Patricia Mikkelsen <LivableFuture@yahoo.com>, Greg Moore <greg@blockstreetandbuilding.com>, Dot Neely <dgneely@uark.edu>, Nitevid <ncole@uark.edu>, Ron Okimoto <rokimoto@uark.edu>, Lin Oliver <woliver@uark.edu>, Alan Ostner <aostner@rauschcoleman.com>, Joseph Plavcan <mplavcan@uark.edu>, Robert Pomeroy <robpom3012@yahoo.com>, Karon Reese <karonreese@hotmail.com>, Charles Richardson <crichard@uark.edu>, Judy Ricker <jricker@uark.edu>, Marie Riley <mriley@uark.edu>, Grady Jim Robinson <gradyjim@aol.com>, Ron Rockwell <bugologist@cox.net>, Louise Russert-Kraemer <rkraemer@uark.edu>, Cindy Sagers <csagers@uark.edu>, Kevin Santos <ksantos@uafphpl.uark.edu>, Scott Shackelford <scotts@nwartimes.com>, Robert Sharp <rob@sharparch.net>, Jeff Silberman <jeff@uark.edu>, Surendra Pal Singh <ssingh@uark.edu>, Dick Smith <rsmith@uark.edu>, Lindsley Smith <lindsleysmith@msn.com>, Stephen Smith <libertas94@msn.com>, Gay Stewart <gstewart@uark.edu>, John Stewart <johns@uark.edu>, Denise Stramel <dstramel@hotmail.com>, Dwight Talburt <talburt@uark.edu>, Melissa Terry <mterry@audubon.org>, Mike Trámill <wheeler65@gmail.com>, Peter Ungar <pungar@uark.edu>, Reeta Vyas <rvas@uark.edu>, Mike Wavering <wavering@uark.edu>, Larry Woodall <la_wood@earthlink.net>
Date: Thu, Apr 20, 2006 9:45 AM
Subject: Petition about building heights

Dear Friends,

If you agree that we should try to limit building heights in Fayetteville, there's a petition being circulated that you can sign on to. It's stated in very general terms and says simply:

"I am (we are) concerned about preserving Dickson Street and views of Old Main."

The strategy is to use this petition to convince the City Council that Fayetteville should enact some sort of height ordinance so that we won't have 15-story and higher structures sticking up at odd places all over town, making it more difficult to achieve healthy infill because tall buildings tend to absorb the market for urban space and they drive up land prices.

If you agree with this petition, just send an email saying so, to: Marie Riley <mriley@uark.edu>.

Art Hobson, Physics, U Arkansas, Fayetteville, AR 72701. See my

From: "Virginia" <virginia@martincustomhomebuilders.com>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 4:59 PM
Subject: Divinity project

I am writing to express my concern and opposition to the Divinity project proposed for Dickinson Street. I moved here almost three years ago and have been delighted with the charm, feeling and beauty of Fayetteville. When I drive down Dickson Street from the top by the University to College Street I enjoy the view of Mt Sequoyah and other sites and would hate to see this joy eliminated or the view obscured by a big building. I have lived and worked in downtown Little Rock and have seen my share of city buildings. Fayetteville is unique and I treasure that and don't want to see it destroyed. Maybe Santa Fe has the right idea in controlling the height of their buildings.

Virginia James

From: <Stiftskaserne@aol.com>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 2:48 PM
Subject: Dickson Street

I have appreciated and enjoyed the atmosphere of Dickson Street, especially after the recent improvements, for more than 19 years. Having a tall building there is completely out of character. Dickson Street would not be Dickson Street anymore! All of us want to continue to enjoy the familiar view: Old main and the hills behind it and around our town.

Please, do not let them build this "thing" and make Dickson Street ugly!

Sincerely,

Hedy hickerson

2057 Old Wire

Fayetteville, AR 72703

Ph: 443 9757

From: "O'Leary-Kelly, Anne" <AOKelly@walton.uark.edu>
To: <dcoody@ci.fayetteville.ar.us>, <dmarr@hr-factor.com>, <ward2_pos1@ci.fayetteville.ar.us>, <planning@ci.fayetteville.ar.us>, <tconklin@ci.fayetteville.ar.us>, <ljordan7@hotmail.com>, <SLucasWard4@aol.com>, <ward3_pos2@ci.fayetteville.ar.us>, <RRhoads@HallEstill.com>, <bthiel@cox.net>, <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <aostner@rauschcoleman.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>
Date: Fri, Apr 21, 2006 9:27 AM
Subject: Divinity Project

Mayor Coody, City Council Members, and members of the Planning Commission: I truly was stunned to read the paper this morning and discover that the planning commission (at the mayor's urging) circumvented the city's own procedural rules in order to bring the revised Divinity project before the committee. What supports the special treatment of these developers and this project? Why would public officials encourage this type of end-run on an issue that they know is going to generate significant public debate? In my opinion, this is a time to be upfront and open with the public, not a time to limit their input and involvement. I am really disappointed to see that this sentiment does not appear to be shared by you, our public officials. This is particularly ironic because it was an end-run around the City's tree ordinance that led to the election of our current administration! I resist the temptation to be cynical, but I truly wonder what the whole Downtown Master Planning process has been about if we ultimately railroad projects through the planning process with limited public knowledge or input.

Beyond the procedural issues, I also want to express my adamant opposition to this revised 10-story Divinity project. This revised plan has simply redistributed the space without reconsidering the fundamental compatibility issue that has concerned its opponents. This building is still out of character with Dickson Street. If we allow these types of developments to take off on Dickson Street, we are selling out the soul of our town. Any city can build 10 story glass structures that provide nice views for the fortunate few who can afford high priced condominiums. Only a really unique city can resist this temptation for easy money and hold tight to a vision that creates a real community, one that values the city's special character and spirit. I sincerely hope that we are the unique city I think we are and that we do not sell out so cheaply.

Anne M. O'Leary-Kelly

220 E. Lafayette St.

From: "O'Leary-Kelly, Scott" <SOLearyKelly@walton.uark.edu>
To: "dcoody@ci.fayetteville.ar.us" <dcoody@ci.fayetteville.ar.us>, "dmarr@hr-factor.com" <dmarr@hr-factor.com>, "planning@ci.fayetteville.ar.us" <planning@ci.fayetteville.ar.us>, "lconklin@ci.fayetteville.ar.us" <lconklin@ci.fayetteville.ar.us>, "lljordan7@hotmail.com" <lljordan7@hotmail.com>, "SLucasWard4@aol.com" <SLucasWard4@aol.com>, "ward3_pos2@ci.fayetteville.ar.us" <ward3_pos2@ci.fayetteville.ar.us>, "RRhoads@HallEstill.com" <RRhoads@HallEstill.com>, "bthiel@cox.net" <bthiel@cox.net>, "jillanthes@sbcglobal.net" <jillanthes@sbcglobal.net>, "CClark359@aol.com" <CClark359@aol.com>, "cmyres@sbcglobal.net" <cmyres@sbcglobal.net>, "aostner@rauschcoleman.com" <aostner@rauschcoleman.com>, "aostner@rauschcoleman.com" <aostner@rauschcoleman.com>, "jgraves@bassettlawfirm.com" <jgraves@bassettlawfirm.com>, "balliehi@sbcglobal.net" <balliehi@sbcglobal.net>, "hharris@lindsey.com" <hharris@lindsey.com>
Date: Fri, Apr 21, 2006 1:54 PM
Subject: Divinity project

Mayor Coody, City Council Members, and members of the Planning Commission:

It's always been my understanding that we have rules governing the development process (e.g., rules governing deadlines, waiting periods, and delays in decisions, etc.) in place to protect the interest of all parties (i.e., the developers, existing businesses, and the general public). In the rare occasions where there is agreement among all parties and the issues before the city is fairly simple and straightforward, it seems reasonable to waive the rules and expedite some decisions. However, this is NOT the situation with regard to the Divinity Project, and I am quite alarmed that our elected officials have now TWICE intervened on the behalf of the Barber Group to circumvent the time elements of the planning process (once by alderman Don Marr - April 4 - City Council approves waiver of 90-day stay associated with possible new regulations for building downtown. The waiver allows the project to go forward to Planning Commission NW Times 4/21/06 and now by Mayor Dan Coody). I voted for a change in the way business was conducted in 2000 - I never dreamt that we would be in this situation with our current administration - it's Déjà Vu all over again.

I ask that you reconsider Mayor Coody's request to set the rules aside and allow this item on the Planning Commissions agenda for this upcoming meeting. While local businesses were given an advanced opportunity to see this "new" plan (see Merchants get first look at new plans NW Times 4/21/06), it is apparent the this will not provide enough time for the commissioners (Commission Chairwoman Jill Anthes said she didn't want commissioners to have to speed-read staff reports on such an important item - NW Times 4/21/06) nor the public to fully digest this new change. If for on no other grounds than procedural justice issues, I implore you take a step back and let the process move forward under the NORMAL procedures/rules.

If we let this move forward in a fair and open process (starting with delaying this issue until the May 8th meeting as the guidelines dictate) and it passes, then I'm guessing most people will agree to disagree with the project. However, if in the end this goes through under the current set of actions, people are going to feel that this was done in an underhanded process and a rift will open that will be very difficult to close.

Scott O'Leary-Kelly

Fayetteville, AR

From: Dan Coody
To: aostner@rauschcoleman.com; balliehi@sbcglobal.net; bthiel@cox.net;
CClark359@aol.com; cmyres@sbcglobal.net; Conklin, Tim; Cook, Kyle; dmarr@hr-factor.com; Ferrell,
Bob; hharris@lindsey.com; jgraves@bassettlawfirm.com; jillanthes@sbcglobal.net;
ljordan7@hotmail.com; O'Leary-Kelly, Anne; Planning; RRhoads@HallEstill.com;
SLucasWard4@aol.com
Date: Mon, Apr 24, 2006 4:38 PM
Subject: Re: Divinity Project

Dear Anne, the idea that the public was somehow "circumvented" by keeping the building on the public Planning Commission agenda is wrong. If it had been taken off the agenda, there would have been no public discussion until it was actually placed ON the agenda. This issue will be debated very publically for as long as it takes to either approve or deny. It was in the paper the next day for the next public agenda of the Planning Commission and it will be in front of the public many more times. There was no "end run" nor will there be. Now the debate can continue. There will be no "limit to public input and involvement."

Thanks, Dan Coody

>>> "O'Leary-Kelly, Anne" <AOKelly@walton.uark.edu> 04/21/06 9:26 AM >>>
Mayor Coody, City Council Members, and members of the Planning Commission: I truly was stunned to read the paper this morning and discover that the planning commission (at the mayor's urging) circumvented the city's own procedural rules in order to bring the revised Divinity project before the committee. What supports the special treatment of these developers and this project? Why would public officials encourage this type of end-run on an issue that they know is going to generate significant public debate? In my opinion, this is a time to be upfront and open with the public, not a time to limit their input and involvement. I am really disappointed to see that this sentiment does not appear to be shared by you, our public officials. This is particularly ironic because it was an end-run around the City's free ordinance that led to the election of our current administration! I resist the temptation to be cynical, but I truly wonder what the whole Downtown Master Planning process has been about if we ultimately railroad projects through the planning process with limited public knowledge or input.

Beyond the procedural issues, I also want to express my adamant opposition to this revised 10-story Divinity project. This revised plan has simply redistributed the space without reconsidering the fundamental compatibility issue that has concerned its opponents. This building is still out of character with Dickson Street. If we allow these types of developments to take off on Dickson Street, we are selling out the soul of our town. Any city can build 10 story glass structures that provide nice views for the fortunate few who can afford high priced condominiums. Only a really unique city can resist this temptation for easy money and hold tight to a vision that creates a real community, one that values the city's special character and spirit. I sincerely hope that we are the unique city I think we are and that we do not sell out so cheaply.

From: "Whitney Hairston" <wahairston@hotmail.com>
To: <planning@ci.fayetteville.ar.us>
Date: Wed, Apr 26, 2006 1:39 PM
Subject: Divinity Hotel Project

>
>To Whom it may concern:
>
>I was present at the planning commission meeting that was held Monday night
>to, among other subjects, discuss the proposed plans for the Divinity Hotel
>presented by The Barber Group. I personally do not see what the fuss is
>about. There is someone that wants to invest \$70,000,000 in Dickson
>Street. Period. He has proposed a building to accomodate OUR guests-those
>in town for our beloved Razorback games, Bikes Blues & BBQ, Walton Arts
>Center Events, among other events or just wanting to visit our lovely town.
>Give the guy a break. There are many buildings around town that I don't
>care too much for the looks, but I appreciate someone wanting to invest in
>my community to make it better. The Barber Group has spent a lot of time,
>money, and effort to create something so beautiful and unique not once, but
>twice to service the city and its guests. All that I kept hearing from the
>opposing side is how this building will not fit into the ideas of the
>Master Plan. I can guarantee you that 90% of the buildings on
>Dickson/Downtown do not fit into the Master Plan design. Isn't that why we
>all love Fayetteville? For the Diversity. I love walking down the streets
>and seeing all different types of people all co-mingling and having a great
>time among all the different types of buildings and bars. I love the fact
>that I can sit at Theo's and have dinner and a cocktail, then walk down to
>George's and watch one of my favorite local bands. Fayetteville is about
>diversity. About being different. And being open-minded, or so I thought.
If we keep denying funds to our town, investors are going to move projects
elsewhere, and Fayetteville will die. And we certainly do not want that to
happen. So unless the opposers would like to pool their funds together to
build something that our downtown/dickson area DESPERATLY needs to their
liking, then please support this project. This is an amazing
>project that I would be proud to drive by daily.
>

>Whitney Hairston
>University of Arkansas Graduate '05
>Proud Fayetteville Resident & Employee
>City Council-Youth Activities Committee Member
>

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From: William Jackson <wjacks02@us.ibm.com>
To: <planning@ci.fayetteville.ar.us>, <lconklin@ci.fayetteville.ar.us>
Date: Thu, Apr 27, 2006 9:22 PM
Subject: Divinity Building

Tim can you forward this to the planning commission? When I was at the meeting this an did not get a chance to voice an opinion on this project.

I heard numerous comments on this before I had to go. I am against the project primarily because of the height of the building. There were numerous comments regarding the height and several buildings in the area having the comparable heights. The comments did not mention the fact buildings of similar height were more then three blocks away. The buildings immediately surrounding the project are one to three story buildings and this project would not be compatible with its surroundings. Although I do not like the building, my concern is more the project is in the wrong place and not compatible with the surroundings.

One concern I have if the building is built, is the Bar on the top floor of the building. How much noise from live music will be generated from this. As a downtown Fayetteville resident, I hear the noise from Dickson street all the time. The noise from Dickson street has to travel up a hill before it gets to our house. If the noise comes from 10 stories up, there will be nothing to filter the noise.

Thanks for your time!
 William Jackson
 230 W. Meadow
 Fayetteville, AR 72701

Technical Sales Specialist, Wal*Mart Account
 Phone Number at Wal*Mart (479) 277-3006
 Cell Phone: (479) 841 - 3484
 Internet Email: wjacks02@us.ibm.com

ODOM & ELLIOTT, P.A.

ATTORNEYS AT LAW

MEMBERS OF THE FIRM

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1 E. MOUNTAIN
FAYETTEVILLE, AR 72701

April 24, 2006

(479) 442-7575
FAX (479) 442-9008JEFFERY J. BOEN
ADMINISTRATORVia Facsimile 575-8202
Planning CommissionRe: *Divinity Development - Dickson Street*

Dear Planning Commission:

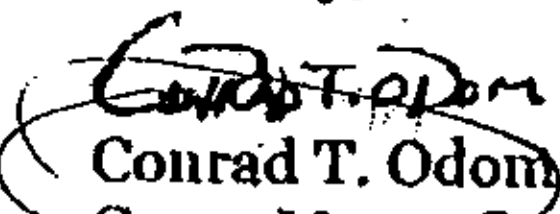
My apologies for submitting a quick note as opposed to attending the Planning Commission meeting tonight. However, I have a prior commitment and will not be available at that time. I am writing specifically to voice my support for the Divinity Development that is before the Commission. I have seen a lot of statements in opposition to this development and I believe the biggest objection is compatibility. I would respectfully disagree that this development is not compatible with the Dickson Street area. I believe that it is not only compatible but very desirable. It is a multi-use project that I think would be a tremendous benefit to the Dickson Street area. I have no objection with regard to its size. In fact, my preference would have been for the prior drawing to have been approved as I felt that the articulation of that building was somewhat more pleasing and desirable. It, however, remains to have some articulation to it and is not a flat 10-story structure from top to bottom.

While at the courthouse today I looked out the window and could see many different structures on the landscape. There, of course, was Old Main, several University dormitories and other buildings and structures. I could also see the Radisson Hotel (which stands next to a 1-story building without any negative effect). Of course, there was the E.J. Ball building and Hillcrest Towers as well as other structures that you can see popping up throughout the area.

I wonder whether or not there was much opposition to the current Radisson Hotel when it was built. It, of course, is a very tall structure that only serves a single use as a hotel.

Again, I am sorry for the informality of this letter. However, I felt it important to let you know that as one citizen of Fayetteville that owns property in the downtown area, I feel that the Divinity Development is compatible and desirable and I would ask for your approval.

Sincerely,


Conrad T. OdomCc: Mayor Coody (Via Facsimile 575-8257)
City Council (Via Facsimile 718-7695)

From: "Otis L. Robinson" <orobins@uark.edu>
To: Fayetteville council <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 10:59 AM
Subject: Divinity

I am writing to voice my support for the Divinity Project. It is my opinion that this will be something that our city will be proud of in the future. I'm thankful that these men have taken on such a project with private money and are willing to take the risk necessary. My reason for support are as follows:

1. The project has been scaled back (although I saw nothing wrong with the original plans) and I believe address the silly concerns about it being too tall. There are other buildings that will be equally as tall or just a little shorter in the area.
2. It will provide jobs and economic growth. We just had an article about hunger in our area. This will provide jobs for struggling families and help solve some of that problem. Children won't have to save their lunch and take it home. It will attract business to the area. Someone said that it will compete with the Fayetteville Center. So what. Competition is good. If the town center can't offer a better product on its own, then let the chips fall where they may.
3. The recently passed ordinance on building height should not apply to this group. One guy said he wouldn't vote for it because it's just too tall. Tell that to a family with hungry kids and ask which they would rather have, a view of Ole Main or food or perhaps needed medicine for an illness.

I have other reasons but I think you see my point. The reasons I've read from those opposed to this project are somewhat petty and trite in my opinion. Give this group a fair chance and see if you might not want to rethink your position. Fayetteville is changing and will continue to do so. We will either grow or stand still while other cities do. While we must be smart about our growth, we mustn't stop worthwhile economic progress just because we don't like how tall something is.

Otis Robinson

RECEIVED
APR 24 2006
PLANNING DIV.

From: <hollybryan@cox.net>
To: <planning@ci.fayetteville.ar.us>, <city_clerk@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 10:37 AM
Subject: Planning commission: Monday, April 24 mtg.

Please forward the following to the members of the planning commission prior to tonight's meeting. Thank you for your time.

Sincerely,
Holly C. Bryan

Dear Commissioners:

I urge you to carefully consider the proposed Divinity development. While I believe in the rights to develop and the concept of in-fill, I feel it is vital to be responsible with development.

My definition of "responsible development" is designing and creating a project to be compatible with the existing buildings and surrounding areas. It is my opinion that the proposed Divinity building is neither compatible nor conducive to its surroundings. Please explain to me how the design of a 15-story chrome and glass building integrates with historic buildings of brick and mortar on Dickson Street.

I understand the struggle we all must be having; wanting to beautify our wonderful town while encouraging growth and enticing commerce while keeping the diversity and eclectic feel Fayetteville is famous for.

Please reject the Divinity project as it is proposed to you today for its incompatibility. Ask the developers to be responsible citizens and design a building that will blend and mesh with the current feel of Dickson Street.

Thank you for your consideration.

Holly Chadick Bryan
107 North Olive
Fayetteville, AR 72701
479-521-1473

From: "O'Leary-Kelly, Anne" <AOKelly@walton.uark.edu>
To: <dcoody@ci.fayetteville.ar.us>, <dmarr@hr-factor.com>, "<ward2_pos1@ci.fayetteville.ar.us>, <planning@ci.fayetteville.ar.us>, <tconklin@ci.fayetteville.ar.us>, <ljordan7@hotmail.com>, <SLucasWard4@aol.com>, <ward3_pos2@ci.fayetteville.ar.us>, <RRhoads@HallEstill.com>, <bthiel@cox.net>, <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <aostner@rauschcoleman.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>
Date: Fri, Apr 21, 2006 9:27 AM
Subject: Divinity Project

Mayor Coody, City Council Members, and members of the Planning Commission: I truly was stunned to read the paper this morning and discover that the planning commission (at the mayor's urging) circumvented the city's own procedural rules in order to bring the revised Divinity project before the committee. What supports the special treatment of these developers and this project? Why would public officials encourage this type of end-run on an issue that they know is going to generate significant public debate? In my opinion, this is a time to be upfront and open with the public, not a time to limit their input and involvement. I am really disappointed to see that this sentiment does not appear to be shared by you, our public officials. This is particularly ironic because it was an end-run around the City's tree ordinance that led to the election of our current administration! I resist the temptation to be cynical, but I truly wonder what the whole Downtown Master Planning process has been about if we ultimately railroad projects through the planning process with limited public knowledge or input.

Beyond the procedural issues, I also want to express my adamant opposition to this revised 10-story Divinity project. This revised plan has simply redistributed the space without reconsidering the fundamental compatibility issue that has concerned its opponents. This building is still out of character with Dickson Street. If we allow these types of developments to take off on Dickson Street, we are selling out the soul of our town. Any city can build 10 story glass structures that provide nice views for the fortunate few who can afford high priced condominiums. Only a really unique city can resist this temptation for easy money and hold tight to a vision that creates a real community, one that values the city's special character and spirit. I sincerely hope that we are the unique city I think we are and that we do not sell out so cheaply.

Anne M. O'Leary-Kelly

220 E. Lafayette St.

From: "O'Leary-Kelly, Scott" <SOLearyKelly@walton.uark.edu>
To: "dcoody@ci.fayetteville.ar.us" <dcoody@ci.fayetteville.ar.us>, "dmarr@hr-factor.com" <dmarr@hr-factor.com>, "planning@ci.fayetteville.ar.us" <planning@ci.fayetteville.ar.us>, "lconklin@ci.fayetteville.ar.us" <lconklin@ci.fayetteville.ar.us>, "ljordan7@hotmail.com" <ljordan7@hotmail.com>, "SLucasWard4@aol.com" <SLucasWard4@aol.com>, "ward3_pos2@ci.fayetteville.ar.us" <ward3_pos2@ci.fayetteville.ar.us>, "RRhoads@HallEstill.com" <RRhoads@HallEstill.com>, "bthiel@cox.net" <bthiel@cox.net>, "jillanthes@sbcglobal.net" <jillanthes@sbcglobal.net>, "CClark359@aol.com" <CClark359@aol.com>, "cmmyres@sbcglobal.net" <cmmyres@sbcglobal.net>, "aostner@rauschcoleman.com" <aostner@rauschcoleman.com>, "aostner@rauschcoleman.com" <aostner@rauschcoleman.com>, "jgraves@bassetlawfirm.com" <jgraves@bassetlawfirm.com>, "balliehi@sbcglobal.net" <balliehi@sbcglobal.net>, "hharris@lindsey.com" <hharris@lindsey.com>
Date: Fri, Apr 21, 2006 1:54 PM
Subject: Divinity project

Mayor Coody, City Council Members, and members of the Planning Commission:

It's always been my understanding that we have rules governing the development process (e.g., rules governing deadlines, waiting periods, and delays in decisions, etc.) in place to protect the interest of all parties (i.e., the developers, existing businesses, and the general public). In the rare occasions where there is agreement among all parties and the issues before the city is fairly simple and straightforward, it seems reasonable to waive the rules and expedite some decisions. However, this is NOT the situation with regard to the Divinity Project, and I am quite alarmed that our elected officials have now TWICE intervened on the behalf of the Barber Group to circumvent the time elements of the planning process (once by alderman Don Marr - April 4 - City Council approves waiver of 90-day stay associated with possible new regulations for building downtown. The waiver allows the project to go forward to Planning Commission NW Times 4/21/06 and now by Mayor Dan Coody). I voted for a change in the way business was conducted in 2000 - I never dreamt that we would be in this situation with our current administration - it's Déjà Vu all over again.

I ask that you reconsider Mayor Coody's request to set the rules aside and allow this item on the Planning Commissions agenda for this upcoming meeting. While local businesses were given an advanced opportunity to see this "new" plan (see Merchants get first look at new plans NW Times 4/21/06), it is apparent the this will not provide enough time for the commissioners (Commission Chairwoman Jill Anthes said she didn't want commissioners to have to speed-read staff reports on such an important item - NW Times 4/21/06) nor the public to fully digest this new change. If for on no other grounds than procedural justice issues, I implore you take a step back and let the process move forward under the NORMAL procedures/rules.

If we let this move forward in a fair and open process (starting with delaying this issue until the May 8th meeting as the guidelines dictate) and it passes, then I'm guessing most people will agree to disagree with the project. However, if in the end this goes through under the current set of actions, people are going to feel that this was done in an underhanded process and a rift will open that will be very difficult to close.

Scott O'Leary-Kelly

Fayetteville, AR

CC:

<washingtonwillowneighborhood@yahoogleups.com>

From: "Victoria Sowder" <vsowder@beta-rubicon.com>
To: <jillanthes@sbcglobal.net>, <CClark359@aol.com>, <cmyres@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <jgraves@bassettlawfirm.com>, <balliehi@sbcglobal.net>, <hharris@lindsey.com>, <planning@ci.fayetteville.ar.us>
Date: Mon, Apr 24, 2006 9:28 AM
Subject: Divinity -

Untitled StationeryGood morning -

I'll admit it: I was appalled by the original 15-story Divinity concept.

And I'll admit something else: I'm very impressed w/the way the developers pulled back and revised the project to be more in line w/the recently approved Underwood Lofts.

This is a big step for us - for Fayetteville. There's a delicate balance between protecting free enterprise and being good stewards of a fragile environment (Downtown Fayetteville).

I'd like Divinity better if it were 9 stories, in keeping w/the genie-out-of-the-bottle approval of the Lofts project - but I am in support the project at its current 10 stories.

Victoria Sowder
resident of Ward 1

Victoria Sowder
Administrative Manager
Beta-Rubicon, Inc.
21 W. Mountain, Suite 123
Fayetteville AR 72701-6064
Phone: 479.444.8118
Fax: 479.444.0089
www.beta-rubicon.com

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The Divinity Building

1. The proposed Divinity Hotel is architecturally a beautiful building.
2. The desire to maximize the economic self-interest of the developer, through their project proposals, is the underlying reason for the City to benefit from the developer's critical assistance in implementing the Downtown Master Plan. **And this is a good thing.** But the City, through its regulations has an equally important responsibility to insure that proposed developments technically support the implementation of the Downtown Master Plan.
3. Under the existing Zoning Ordinance the Divinity Building's height would not be an issue, **but under the new Downtown Zoning Ordinance it is an issue.**
4. The existing zoning ordinance is out of step with the citizen's current sentiments regarding the height and resulting appearance of new development along Dickson.
5. The City is expeditiously, **but carefully working through the process of developing a new Downtown Zoning Ordinance** that address the issues brought forward by the general public and involved developers during the creation of the Downtown Master Plan.
6. The City could designate a time-limited moratorium on development in the downtown area until the new Zoning Ordinance is completed, **but the City has elected to allow developments to proceed thought the regulatory review process.**
7. The Divinity Building developer has apparently elected to ignore the citizen's current sentiments regarding the acceptable height of new developments along Dickson. **In fact, they are using the cries of potential economic loss to the city and the threat of claiming unfair treatment to twist the arm of the city to allow them to maximize their profit at the expense of the successful implementation of the Downtown Master Plan.**
8. The best way to insure the long-term economic success of the City is to make sure it develops in conformance with the Downtown Master Plan. **More and more last minute nonconforming developments bring us closer to real long-term economic loss do to the harmful impacts these developments have on creating a visually messy and disjointed built environment.**
9. The new Downtown Zoning Ordinance is going to be a critical tool for the successful implementation of the Downtown Master Plan. **But until it is adopted we have the Master Plan Map and its documentation to help guide developers and the City.**

10. The Downtown Master Plan is worth fighting for. The Planning Commission, City Council, Mayor and City Attorney need to realize that the citizens of Fayetteville expect them to stand up to the economic self-interests of developers and support the successful implementation of the Downtown Master Plan even if threatened with self-centered legal action. **If you do not stand up to the selfish interests of some developers you will be opening up the door for a chaotic period of more and more rushed development proposals to take advantage of the transition from the old to the new zoning ordinance.**
11. The approval of the nine stories Lofts Development at the other end of Dickson should not be considered a precedent, but only an unfortunate nonconformity. **The Planning commission would be setting a disastrous precedence if they cave in to developer pressure and recommend a second development that exceeds the six-story limit under the new Downtown Zoning Ordinance.**
12. **Remember one unfortunate approval does not make precedence, but two might.** You must hold firm in you support of the Downtown Master Plan. Say no to a 10 or even 7 story Divinity Development Project.

Tom Brown
339 N Gregg Ave.

April 8, 2006

Dear Fayetteville City Council & Planning Commission:

Fayetteville's MAIN & BEST Human-Constructed attraction is the "Old Village" or Historic "Downtown" Fayetteville bounded on the west by Arkansas Avenue, to the east by Mount Sequoyah & Mission Blvd./Hwy. 45 East, to the south by 6th Street, and to the north by North Street.

PRESERVING the history and character of our "inner" city, as adaptations for increasing density are considered and implemented, is in the best interest of all residents and potential visitors to Fayetteville.

Maintaining the character of this portion of the city includes consideration of SCALE or LIMITING BUILDING HEIGHTS TO NO MORE THAN 4 STORIES.

4-STORIES & CERTAINLY
Expansion and new construction driven by the influx into NW Arkansas of approximately 1000 individuals per month need not require the sacrifice of the historic places unique to OUR HOMETOWN.

"New, "HIGH-Profile" construction would be more appropriately sited outside the Historic Districts, in the vicinity of the NW Arkansas Mall, as well as, along Joyce Street and the I-540 By-Pass, for example.

choose to live in
People visit Fayetteville for the variety it has to offer: Landscapes & "human-scapes", the Arts, the farmer's market, trails, ivory towers, parks, flowers, barbeque, bikes, blues, & the Old, as well as the New.

Good planning and development can enhance the aesthetics of a community.

Plan Good!

Thank you for your time and consideration.

Respectfully,
Dot Neely

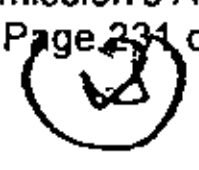
Dot Neely / 1244 Mission Blvd.



List of those concerned about preserving Dickson Street and views of Old Main.

- 1. Nancy Allen**
- 2. Nate Allen**
- 3. Brenda Kincaid**
- 4. Rhea Shelton Rooke-Ley**
- 5. Susan Lesh Chadick**
- 6. Sammy Long Kopelman**
- 7. Ralph H. Nesson**
- 8. Ann Ferrell Wilson**
- 9. Aubrey Shepherd**
- 10. Kimberly Muire**
- 11. Art Hobson**
- 12. Ann Fairchild**
- 13. Jan McClurg**
- 14. Marie Riley**
- 15. Jimmie Delfebaugh Whitfield**

RECEIVED
APR 24 2006
PLANNING DIV.



16. William H. Whitfield
17. Barbara Rankin
18. Tommy Rankin
19. Ron F. Rockwell
20. Jim Jackson
21. Joann C. Kvamme
22. Cookie Shelton Redfern
23. Sarah Myers
24. Bill Halter
25. Rick Belt
26. Cindy Greene
27. Major (Ret.) John David Swaim
28. Beverley Ann Swaim
29. Linda Ralston
30. Katherine Adam
31. Alyson Low
32. Robert Cross

3

33. Jim Williams

34. Barbara Williams

35. Scott McCarty

36. Jack C. Lyons

37. Claudette Cardwell

38. Roy Reed

39. Diane Breazeale

40. Dorothy G. Neely

41. Pat Trimble Patterson

42. Cindy Kaike

43. Dick Bennett

44. Victoria Bryan

45. Margaret Robinson Barron

46. Merilee Harrison

47. Whitney Halladay Whitelew

48. Sarah E. Lewis

49. Fran Alexander

(4)

50. Dede Muhler

51. Holly Bryan

52. Joe C. Neil

53. Colleen Taylor

54. Connie Porter

55. Don White

56. Sudie Henderson

57. Bob Emenegger

58. Leslie Harvey

59. Bob Riggs

60. Jeannie Riggs

61. Edward Hejtmanek

62. Ethel C. Simpson

63. Pamela Jansma

64. Suzanne Parnell

65. Raina L. Smith

66. Scott O'Leary-Kelly



67. Ann Adams Eddy

68. Miller Williams

69. Jordan Williams

70. Janet Tucker

71. Pat Storey

72. Patricia Mikkelson

73. Denele Campbell

74. Lib Horn

75. Karon Reese

76. Barbara G. Taylor

77. James R. Jackson

78. Tim Kring

79. Ken Eastin

80. Terry Eastin

81. Janet Roessler

82. Rick Roessler

83. Nancy Speer

(6)

- 84. Mina Marsh**
- 85. Cathy Bass**
- 86. Jeff Erf**
- 87. Nancy Owens**
- 88. Joyce Richards**
- 89. Deborah Vyron**
- 90. Stephen Vallus**
- 91. Al Vick**
- 92. Ellen Compton**
- 93. Heather Daniel-Blake**
- 94. Janet Ousterhout**
- 95. Beth Lowrey**
- 96. Larry Horn**
- 97. Rebecca Wasson**
- 98. Cathy Hooper**
- 99. Bobbie N. Templeton**
- 100. Susan Dulan Hall**

7

- 101. Missy Leflar**
- 102. Lisa Olinger**
- 103. Katie Mihalebich**
- 104. Nan Lawer**
- 105. Dorothy Neely**
- 106. Nel Janzen**
- 107. Martha McBride**
- 108. Dr. M.J. Stephenson**
- 109. Ruth Collier**
- 110. Denise Wholey**
- 111. Kathy Thompson**
- 112. Don Deweese**
- 113. Ronald Eddy**
- 114. Jim Bemis**
- 115. Kathy McGuire-Bouwman**
- 116. Kym Allen**
- 117. Alice Beetz**

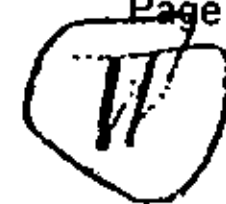
(8)

118. James Alexander
119. Jim Wisman
120. Clare Wisman
121. David K. Allen
122. Sdorman Jones
123. Jay Burk
124. Liz Molesso
125. Sharon Echels
126. John Echels
127. Irene Pritchard
- ~~128~~ Cora Morrison
129. Virginia Reed
130. McCoy Reed
131. Allison Thompson
132. Margie Farber
133. Paul Doug Smith
134. Martha Sutherland
135. Jay Hale
136. Clay Bass
137. Arden Kate

- 39. Jan Judy
- 140. Bruce Welsh
- 141. Martha Sutherland
- 142. Colene Gaston
- 143. Cy Sutherland
- 144. Charles Richardson
- 145. Anne Murphy
- 146. Jo Bennett
- 147. Diane Carroll
- 148. Scott Carroll
- 149. Camille D. Blankinship
- 150. Clare Beardon Connally
- 151. Colleen Pancake
- 152. Janet Searce
- 153. Shay Hopper
- 154. David Hopper
- 155. Natalie Pomeroy
- 156. Hugh Kincaid
- 157. Alan Beachamp
- 158. Claudette Hunnicut
- 159. Scott Lumsford



- 160. Emily Brown
- 161. Letty Brown
- 162. Vol Prichard
- 163. Bill Breazeale
- 164. Bob Siggafoos
- 165. Kathleen Siggafoos
- 166. Colene Gaston
- 167. William McMillan
- 168. John Newman
- 169. Jody Phelps
- 170. David Durdin
- 171. Wynn Dickenson
- 172. Bob Caulk
- 173. Michael Thomas
- 174. Ann O'Leary-Kelly
- 175. Carol Maxwell
- 176. Vanessa Cook
- 177. Chip Dickenson
- 178. Barbara Singleton
- 179. Dr. Mitch Singleton
- 180. Terry J. Wood
- 181. Sam Allen



182. Linda Cosbill
183. Stacy Cosbill
184. Myneeka Cook
185. Dr. David Crittenden
186. Marsha Crittenden
187. Carol Widdler
188. Phyllis Stanberry
189. June Ziser
190. Carolyn Bradford
191. Phil Stewart
192. Judy Greenwood
193. Dr. Margaret Clark
194. Louise Harp
195. David Harp
196. Richard Anderson
197. Andy Shupe
198. Carol Budd Young
199. Nancy Ann Heffernan
200. Cathy Boyd
201. Suzanne Mae Rae
202. Marian Kunetha
203. Won Harrison

203. Henry Griffith
HENRY GRIFFITH
204. Ernie Duman
205. ~~James B. Terrell~~ JAMES B. TERRELL
206. E. Lynette Turner
207. Nancy G. Williams
208. Robert W. Pomeroy
209. Tonya Childress
210. Henry Childress
211. Maurice Webb
212. Rev. Gary Lunsford
213. Ed Carey
214. Virginia Carey
215. George Kobe
216. Ginny Kobe
217. Otis Kirk
218. Jean Kirk
219. Mark Kinion
220. Landria Nichols

(13)

221. Cadey Nichols
222. Jane S. Davis
223. Cyrus Young
224. Scott Cain
225. Sharon Cain
226. Mari Sokolowski
227. Jenny Edens
228. Earl Buddy Chadick
229. Wally Hall
230. Sherry Smith
234. Baxter Smith
235. Henry Moore
236. Frank Grohowski
237. John Kreigh
238. Tad Sauers
239. Bryan Powers
240. "Penguin" Ed Knight
241. Charlie Alison
242. Dr. Bill Martin
243. Gail Henry
244. Keith Kidd
245. Rick Fires

- 246. Chris Cocolos
- 247. Tom Omhundo
- 248. Steve Reimer
- 249. Louis Duke
- 250. Gen Broyles
- 251. Marcia Shelton
- 252. Courtney Boschma
- 253. Bill Boschma
- 254. Darlene Murphy
- 255. Audley Hall
- 256. Grant Hall
- 257. David Dickinson
- 258. Robin Hall
- 259. Bob Hall
- 260. F. Wed Williamson
- 261. Jim
- 262. Bill Goliff
- 263. Eddie Bradford
- 264. Betty Bradford
- 265. Dr. Steve Whitelaw
- 266. Mariska Whitelaw

List of those concerned about preserving Dickson Street and views of Old Main.

1. Dick Smith
2. Joan Smith
3. Denise Wholey
4. Cindy Kalke
5. Matthew Henning Griffith
6. Tim Klinger
7. Christine Klinger
8. Rick McKinney
9. Lanita McKinney
10. Joseph Reagan
11. Lena Reagan
12. Rebecca I. Harrison, GG
13. Jill Anthes
14. Scott O'Leary-Kelly
15. Anne O'Leary-Kelly
16. Kristin Musnug
17. Kelly Mulhollan
18. Donna Stjerna
19. Dwain Cromwell
20. Kristin Musnug
21. Susan Adkins
22. Johnny Adkins
23. Scott Lunsford
24. Kay Pritchard
25. Les Seigneur
26. Akbar Golmirzaie
27. Pegah Golmirzaie
28. Craig Brown
29. Jennifer Brown
30. Art Hobson
31. Marie Riley
32. Anne Thomas
33. Roxanne Worthy
34. Cathy Hooper
35. Pam Laborn
36. Joe Merkel
37. Stephen Vallery
38. Deborah Bryon
39. Renee Janski
40. Jeremiah Griffin
41. Dane Laborn
42. Mary Field
43. Erin Griffin

(17)

- 90. Terry Hunt
- 91. Renee Hunt
- 92. Colin Baker
- 93. Mike Owings
- 94. Alannah Massey
- 95. Rita Massey
- 96. Melissa Owings
- 97. Dan Puckett
- 98. Ling Ting
- 99. Coralie Koonce
- 100. Molly Saxon
- 101. Parke Breedlove
- 102. Jack C. Lyons
- 103. Pam Horowitz
- 104. Delia Gorder
- 105. Don White
- 106. Judith Ricker
- 107. Jim Jackson
- 108. Denise Greathouse

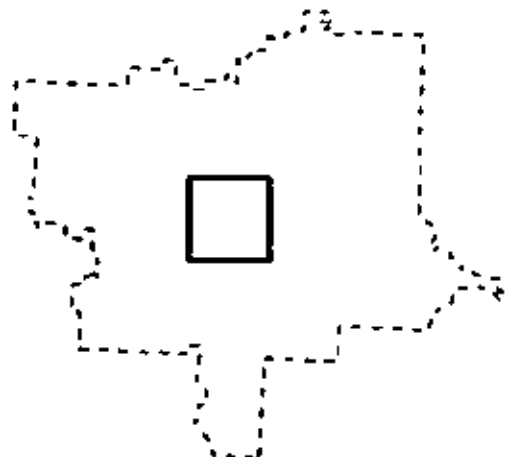
LSD06-1997

One Mile View

DIVINITY



Overview



Legend

Subject Property

LSD06-1997

Boundary

Planning Area

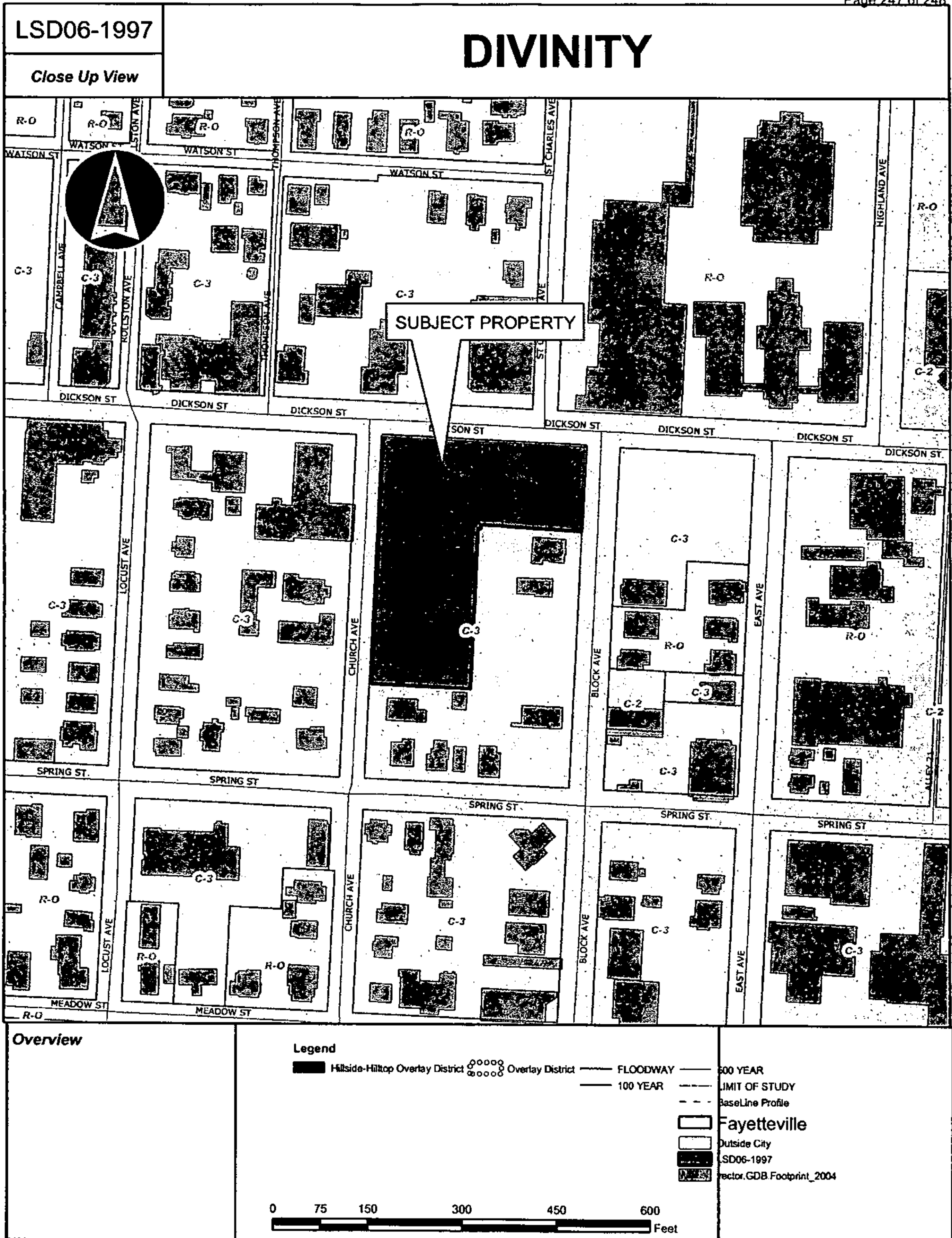
Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 0.75 1 Miles



● Agenda Session ●

6/27/06



CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701
(479) 575-8220

**CLASSIFICATION AND COMPENSATION SYSTEM
PHASE ONE – JOB DESCRIPTIONS**

SUMMARY REPORT

Submission By:
JOHANSON | GROUP
2928 McKee Circle, Suite 123
Fayetteville, AR 72703
June 27, 2006

City of Fayetteville

Comparison Study

June 27, 2006

Contributors

SEC Participant

Tuscaloosa, AL
Auburn, AL
Oxford, MS
Columbia, SC
Knoxville, TN

Associated University

University of Alabama
Auburn University
Ole Miss University
University of South Carolina
University of Tennessee

Regional Participant

Springfield, MO
Stillwater, OK
Norman, OK
Fort Smith, AR

Associated University

Missouri State University
Oklahoma State University
University of Oklahoma
University of AR – Fort Smith

Prepared By

Johanson Group

Blair Johanson – Principle
Grant Johanson – Junior Partner

City of Fayetteville - SEC, OK, MO Comparison Study
June, 2006

<u>Description</u>	<u>City of Fayetteville</u>	
Average Population	89,984	67,020
Employees as a Percentage of the Population		
Tuscaloosa	1.47%	
Auburn	1.09%	
Athens	-	
Tallahassee	-	
Gainesville	-	
Starkville	-	
Oxford	2.18%	
Columbia	1.72%	
Knoxville	0.90%	
Springfield	1.01%	
Stillwater	1.30%	
Norman	0.71%	
Fort Smith	1.03%	
Average	1.27%	1.10%
Number of Employees/1000 Population		
Tuscaloosa	14.67	
Auburn	10.86	
Athens	-	
Tallahassee	-	
Gainesville	-	
Starkville	-	
Oxford	21.80	
Columbia	17.19	
Knoxville	8.98	
Springfield	10.13	
Stillwater	13.01	
Norman	7.11	
Fort Smith	10.26	
Average	12.67	10.99%
Average City Size (Sq. Miles)	68.43	45.19
Number of Emps/Sq Miles		
Tuscaloosa	20.93	
Auburn	13.43	
Athens	-	
Tallahassee	-	
Gainesville	-	
Starkville	-	
Oxford	29.00	
Columbia	15.97	
Knoxville	17.26	
Springfield	20.77	
Stillwater	19.06	
Norman	4.06	
Fort Smith	16.70	
Average	17.46	16.29

City of Fayetteville - SEC, OK, MO Comparison Study
June, 2006

Description

City of Fayetteville

Average Number of Employees	1022.11	736
Average Number of Job Titles	292	206
Number of Employees/Number of Titles		
Tuscaloosa	4.39	
Auburn	3.28	
Athens	-	
Tallahassee	-	
Gainesville	-	
Starkville	-	
Oxford	2.44	
Columbia	3.82	
Knoxville	3.61	
Springfield	3.38	
Stillwater	2.42	
Norman	4.08	
Fort Smith	3.11	
Average	3.50	3.57

Position Titles Comparison	Predominate Titles	102	49.5%
	Known Titles	74	36.0%
	Titles w/o a Match	30	14.5%

Number of Cities with University Police	8 of 12		
Average Size of University Police Force	44.8	5/8 reported	30
Average Student Population	19,269		16,449

Job Description Project Update:

206 Job Descriptions Completed - RFP Positions (City Management Review)

23 Additional Job Descriptions Completed (City Management Review)

City of Fayetteville – Pay System Comparison Summary June, 2006

Exempt Positions

Cities with Salary Ranges	9
Merit Based (5)	
Step and Grade (4)	
-With Step Advancement Based on Performance Evaluation (1)	
Cities without Salary Ranges	1
Set by City Admin (1)	

Hourly Positions

Cities with Pay Ranges	10
Merit Based (5)	
Step and Grade (5)	
-With Merit Based Bonuses (1)	

Police Positions

Cities with Pay Ranges	9
Merit Based (3)	
Step and Grade (6)	
-Separate Unionized S/G System (1)	
- With Step Advancement Based on Performance Evaluation (1)	
Cities without Pay Ranges	1
Set by City Admin (1)	

Fire Positions

Cities with Pay Ranges	9
Merit Based (3)	
Step and Grade (6)	
-Separate Unionized S/G System (1)	
- With Step Advancement Based on Performance Evaluation (1)	
Cities without Pay Ranges	1
Set by City Admin (1)	

Position and Efficiency Study

			City	City	University	University	Police Dept.	Total #	Total #	Unif. Serv.	Separate	Separate	Separate	Separate
City	State	School	Pop. Est. 2004	Square Miles	Student Pop.	Yes/No	Yes/No	City Emps.	of Job Titles	Civil Serv. Yes/No	Sal. Range For Admin. Y/N & type	Pay Range For Hourly Y/N & type	Sal. Range For Police Y/N & type	Sal. Range For Fire Y/N & type
SEC														
Tuscaloosa	AL	U of AL	80,181	56.2	40,119	Yes - 23	Y	1176	268	Y	Yes S&G*	Yes S&G	Yes S&G*	Yes S&G*
Auburn	AL	U of Auburn	48,348	39.1	19,703	No	N	525	160	N	Determined†	Yes S&G	No Determined†	No Determined†
Oxford	MS	Ole Miss.	13,301	10.0	11,068	Yes - 31	N	290	119	N	Yes S&G	Yes S&G	Yes S&G	Yes S&G
Columbia	SC	U of SC	118,331	125.2	19,682	Yes - 55	N	2000	523	N	Yes Merit	Yes Merit	Yes Merit	Yes Merit
Knoxville	TN	U of TN	178,118	92.7	23,333	Yes - 76	Y	1600	443	Y	Broadband Merit	Entry Rng Payband Merit	Entry Rng Payband Merit	Entry Rng Payband Merit
REGIONAL														
Springfield	MO	SMSU	150,074	73.2	14,680	No	N	1520	450	N	Yes S&G	Yes S&G	Yes S&G	Yes S&G
Stillwater	OK	OSU	40,731	27.8	16,937	No	N	530	219	N	Yes S&G**	Yes S&G**	Yes Union Separate S&G	Yes Union Separate S&G
Norman	OK	U of OK	100,923	177.0	23,910	Yes - 39	N	718	176	N	Yes Merit	Yes Merit	Yes Merit	Yes Merit
Fort Smith	AR	UAFS	81,849	50.3	6,809	No	Y	840	270	Y	Yes Merit	Yes Merit	Yes S&G	Yes S&G
Fayetteville	AR	U of AR	64,190	45.192	16,449	Yes - 30	Y	736	206	Y	Yes Merit	Yes Merit	Yes S&G	Yes S&G

*Step based on performance evaluation from Personnel Board

**Step and Grade system with merit-based bonuses

†Salary set by city administrator

City of Fayetteville
Position Titles and Grades
FLSA Overtime Exemption Report - June, 2006

Position Title	Grade	Grade	Current Exemption Status	Exemption Status Proposed
MAYOR		1768	Exempt	Exempt
DIRECTOR OF OPERATIONS		1292	Exempt	Exempt
FINANCE/INTERNAL SVC. DIR		1124	Exempt	Exempt
CITY ATTORNEY		1074	Exempt	Exempt
DISTRICT JUDGE		1074	Exempt	Exempt
FIRE CHIEF		950	Exempt	Exempt
POLICE CHIEF		950	Exempt	Exempt
WATER/WASTEWATER DIR		904	Exempt	Exempt
PLANNING AND PROGRAM DEVELOPMENT DIRECTOR		864	Exempt	Exempt
PROJECT MANAGER		830	Exempt	Exempt
DEPUTY CHIEF OF POLICE		732	Exempt	Exempt
ASSISTANT FIRE CHIEF		682	Exempt	Exempt
CITY ENGINEER	EXD	677	Exempt	Exempt
PROSECUTING ATTORNEY		677	Exempt	Exempt
ASST CITY ENGINEER	ED	15	Exempt	Exempt
INFORMATION TECHNOLOGIES MANAGER	ED	15	Exempt	Exempt
ACCOUNTING MANAGER	ER	15	Exempt	Exempt
BUDGET MANAGER	ER	15	Exempt	Exempt
DIRECTOR OF CURRENT PLANNING	ER	15	Exempt	Exempt
ENVIRONMENTAL AFFAIRS ADMINISTRATOR	ER	15	Exempt	Exempt
HUMAN RESOURCES DIRECTOR	ER	15	Exempt	Exempt
PARKS & REC DIRECTOR	ER	15	Exempt	Exempt
TRANSPORTATION MGR	ER	15	Exempt	Exempt
W & S OPERATIONS MANAGER	ER	15	Exempt	Exempt
ANIMAL SERVICES SUPERINTENDENT	EB	14	Exempt	Exempt
BUILDING SERVICES AND PROJECT MANAGER	EB	14	Exempt	Exempt
STAFF ENGINEER	ED	14	Exempt	Exempt
BILLING AND COLLECTIONS MANAGER	ER	14	Exempt	Exempt
BUILDING SAFETY DIRECTOR	ER	14	Exempt	Exempt
COMMUNITY RESOURCES & CODE COMPLIANCE DIRECTOR	ER	14	Exempt	Exempt
DISPATCH MANAGER	ER	14	Exempt	Exempt
FLEET OPERATIONS SUPERINTENDENT	ER	14	Exempt	Exempt
INTERNAL AUDITOR	ER	14	Exempt	Exempt
PUBLIC INFORMATION AND POLICY ADVISOR	ER	14	Exempt	Exempt
PURCHASING MANAGER	ER	14	Exempt	Exempt
TELECOMMUNICATIONS MANAGER	ER	14	Exempt	Exempt
TRANSPORTATION SUPERINTENDENT	ER	14	Exempt	Exempt
DATABASE ADMINISTRATOR	ED	13	Exempt	Exempt
GIS COORDINATOR	ED	13	Exempt	Exempt
NETWORK ENGINEER	ED	13	Exempt	Exempt
SR PROGRAMMER/ANALYST	ED	13	Exempt	Exempt
ACCOUNTING COORDINATOR	ER	13	Exempt	Exempt
ASSISTANT CITY ATTORNEY	ER	13	Exempt	Exempt
CONTRACT GRANT ACCOUNTANT	ER	13	Exempt	Exempt
DEPUTY CITY PROSECUTOR	ER	13	Exempt	Exempt
HUMAN RESOURCES ADMIN	ER	13	Exempt	Exempt
PARKS MAINT SUPERINTENDENT	ER	13	Exempt	Exempt
RECREATION SUPERINTENDENT	ER	13	Exempt	Exempt
SUPPORT SERVICES MANAGER	ER	13	Exempt	Exempt
TRAILS COORDINATOR	ER	13	Exempt	Exempt

City of Fayetteville
Position Titles and Grades
FLSA Overtime Exemption Report - June, 2006

Page 2

Position Title	Grade	Grade	Current Exemption Status	Exemption Status Proposed
BUILDING SERVICES SUPERVISOR	EB	12	Exempt	Exempt
PARKS MAINTENANCE SUPERVISOR	EB	12	Exempt	Exempt
SOLID WASTE OPERATIONS SUPERVISOR	EB	12	Exempt	Exempt
TRAFFIC CONTROL SUPERVISOR	EB	12	Exempt	Exempt
W & S SERVICES TECHNICAL SUPERVISOR	EB	12	Exempt	Exempt
WATER SERVICES SUPERVISOR	EB	12	Exempt	Exempt
BUSINESS SYSTEMS ANALYST	ED	12	Exempt	Exempt
IT HELP DESK SUPPORT ANALYST (SYSTEMS ADMINISTRATOR	ED	12	Exempt	Exempt
SYSTEMS ANALYST	ED	12	Exempt	Exempt
CITY CLERK	ER	12	Exempt	Exempt
FINANCIAL ANALYST	ER	12	Exempt	Exempt
FIRE FINANCIAL ANALYST	ER	12	Exempt	Exempt
FIXED ASSETS/INVESTMENT COORDINATOR	ER	12	Exempt	Exempt
FLEET SUPPORT MANAGER	ER	12	Exempt	Exempt
HEAD COURT CLERK	ER	12	Exempt	Exempt
LAND AGENT II	ER	12	Exempt	Exempt
MANAGEMENT ACCOUNTING COORDINATOR	ER	12	Exempt	Exempt
PARK PLANNER	ER	12	Exempt	Exempt
PLANNER	ER	12	Exempt	Exempt
SR RESEARCH ANALYST	ER	12	Exempt	Exempt
SIDEWALK,ADA ADMIN	NA	12	Non-Exempt	Non-Exempt
COMMUNICATIONS COORD	NB	12	Non-Exempt	Non-Exempt
PLANS EXAMINER	NB	12	Non-Exempt	Non-Exempt
SURVEYOR	NB	12	Non-Exempt	Non-Exempt
FLEET OPERATIONS SUPERVISOR	EB	11	Exempt	Exempt
HORTICULTURIST	EB	11	Exempt	Exempt
BUDGET ANALYST	ER	11	Exempt	Exempt
CABLE ADMINISTRATOR	ER	11	Exempt	Exempt
CODE COMPLIANCE ADMIN	ER	11	Exempt	Exempt
COMMUNITY RESOURCES PROJECT ADMINISTRATOR	ER	11	Exempt	Exempt
FINANCIAL COORDINATOR	ER	11	Exempt	Exempt
HOT CHECK ADMINISTRATOR	ER	11	Exempt	Exempt
LAND AGENT I	ER	11	Exempt	Exempt
WASTE REDUCTION COORDINATOR	ER	11	Exempt	Exempt
BUSINESS AND SYSTEMS OPERATOR	NA	11	Non-Exempt	Non-Exempt
BUYER	NA	11	Non-Exempt	Non-Exempt
PROPERTY/EVIDENCE MANAGER	NA	11	Non-Exempt	Non-Exempt
URBAN FORESTER	NA	11	Non-Exempt	Non-Exempt
FIELD OPERATIONS SUPERVISOR	NB	11	Non-Exempt	Non-Exempt
INSPECTOR/COMMERCIAL & RESIDENTIAL	NB	11	Non-Exempt	Non-Exempt
LEAD EQUIPMENT MECHANIC	NC	11	Non-Exempt	Non-Exempt
W/S FIELD SUPERINTENDENT	ND	11	Non-Exempt	Non-Exempt
GIS TECHNICIAN	ED	10	Exempt	Exempt
COMMUNITY CENTER DIRECTOR	ER	10	Exempt	Exempt
ACCOUNT CLERK - REVENUES	NA	10	Non-Exempt	Non-Exempt
ACCOUNT CLERK/PAYROLL	NA	10	Non-Exempt	Non-Exempt
ADMINISTRATIVE ASSISTANT	NA	10	Non-Exempt	Non-Exempt
CAD DRAFTER	NA	10	Non-Exempt	Non-Exempt
EXECUTIVE SECRETARY	NA	10	Non-Exempt	Non-Exempt
LEAD COURT CLERK	NA	10	Non-Exempt	Non-Exempt
LEAD RECORDS CLERK	NA	10	Non-Exempt	Non-Exempt
OFFICE MANAGER	NA	10	Non-Exempt	Non-Exempt
PROJECT COORDINATOR	NA	10	Non-Exempt	Non-Exempt

City of Fayetteville**Position Titles and Grades****FLSA Overtime Exemption Report - June, 2006**

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Position Title	Grade	Grade	Current Exemption Status	Exemption Status Proposed
SOLID WASTE COMMERCIAL REPRESENTATIVE	NA	10	Non-Exempt	Non-Exempt
CRIME SCENE TECHNICIAN	NB	10	Non-Exempt	Non-Exempt
INSPECTOR/RESIDENTIAL	NB	10	Non-Exempt	Non-Exempt
PW PROJECTS INSPECTOR	NB	10	Non-Exempt	Non-Exempt
ANIMAL SERVICES COORDINATOR	NC	10	Non-Exempt	Non-Exempt
CONSTRUCTION CREW LEADER	NC	10	Non-Exempt	Non-Exempt
EQUIPMENT MECHANIC III	NC	10	Non-Exempt	Non-Exempt
MAINTENANCE CREW LEADER (Building)	NC	10	Non-Exempt	Non-Exempt
METER OPERATIONS ASSISTANT	NC	10	Non-Exempt	Non-Exempt
TRAFFIC SIGNAL TECHNICIAN	NC	10	Non-Exempt	Non-Exempt
BACKFLOW PREVENTION OPER ASST	ND	10	Non-Exempt	Non-Exempt
LEAD DISPATCHER	ND	10	Non-Exempt	Non-Exempt
PW CREW LEADER/TANKS & PUMPS	ND	10	Non-Exempt	Non-Exempt
PW FIELD SERVICE REP	ND	10	Non-Exempt	Non-Exempt
ACCOUNT CLERK - RECEIVABLE	NA	9	Non-Exempt	Non-Exempt
ACCOUNT CLERK/BUSINESS OFFICE	NA	9	Non-Exempt	Non-Exempt
ACCOUNT CLERK/PAYABLES	NA	9	Non-Exempt	Non-Exempt
ADMINISTRATIVE ASSISTANT- MAYOR'S OFFICE	NA	9	Non-Exempt	Non-Exempt
ATHLETIC PRGM SPEC	NA	9	Non-Exempt	Non-Exempt
BENEFITS COORDINATOR	NA	9	Non-Exempt	Non-Exempt
COMMUNITY DEVELOPMENT ASST	NA	9	Non-Exempt	Non-Exempt
DEPUTY CITY CLERK	NA	9	Non-Exempt	Non-Exempt
OPERATIONS ASSISTANT	NA	9	Non-Exempt	Non-Exempt
PLANNING TECH	NA	9	Non-Exempt	Non-Exempt
PROGRAM SPECIALIST	NA	9	Non-Exempt	Non-Exempt
SENIOR LEGAL ASSISTANT	NA	9	Non-Exempt	Non-Exempt
SR POLICE SUPPORT SPECIALIST	NA	9	Non-Exempt	Non-Exempt
CODE COMPLIANCE OFFICER	NB	9	Non-Exempt	Non-Exempt
FIRE INSPECTOR (Civilian)	NB	9	Non-Exempt	Non-Exempt
LEAD FLEET WAREHOUSE ATTENDANT	NB	9	Non-Exempt	Non-Exempt
PROPERTY LOCATION ANALYST	NB	9	Non-Exempt	Non-Exempt
ANIMAL SERVICES OFFICER	NC	9	Non-Exempt	Non-Exempt
CARPENTER I	NC	9	Non-Exempt	Non-Exempt
EQUIPMENT MECHANIC II	NC	9	Non-Exempt	Non-Exempt
LEAD PW WAREHOUSE ATTENDANT	NC	9	Non-Exempt	Non-Exempt
PARK FACILITIES MNT WKR	NC	9	Non-Exempt	Non-Exempt
PW CREW LEADER	NC	9	Non-Exempt	Non-Exempt
PW CREW LEADER/PUBLIC LANDS MAINTENANCE	NC	9	Non-Exempt	Non-Exempt
SEWER SYSTEM MAINTENANCE TECH II	NC	9	Non-Exempt	Non-Exempt
VETERINARY ASSISTANT	NC	9	Non-Exempt	Non-Exempt
DISPATCH TRAINER	ND	9	Non-Exempt	Non-Exempt
PW CREW LEADER - WATER LICENSE	ND	9	Non-Exempt	Non-Exempt
ACCOUNT CLERK PARKING	NA	8	Non-Exempt	Non-Exempt
ACCOUNT CLERK/CASH	NA	8	Non-Exempt	Non-Exempt
ACCOUNTING CLERK	NA	8	Non-Exempt	Non-Exempt
DEPUTY COURT CLERK	NA	8	Non-Exempt	Non-Exempt
ENGINEERING SERVICES COORD	NA	8	Non-Exempt	Non-Exempt
EVENT SPECIALIST	NA	8	Non-Exempt	Non-Exempt
HOT CHECK PROGRAM CLERK	NA	8	Non-Exempt	Non-Exempt
LEGAL ASSISTANT	NA	8	Non-Exempt	Non-Exempt
OPERATIONS CLERK	NA	8	Non-Exempt	Non-Exempt
PERMIT CLERK	NA	8	Non-Exempt	Non-Exempt

City of Fayetteville
Position Titles and Grades
FLSA Overtime Exemption Report - June, 2006

Position Title	Grade	Grade	Current Exemption Status	Exemption Status Proposed
POLICE SUPPORT SPECIALIST	NA	8	Non-Exempt	Non-Exempt
PRODUCTION TECHNICIAN	NA	8	Non-Exempt	Non-Exempt
PURCHASING CLERK	NA	8	Non-Exempt	Non-Exempt
SENIOR CASHIER	NA	8	Non-Exempt	Non-Exempt
SENIOR CUSTOMER SERVICE REPRESENTATIVE	NA	8	Non-Exempt	Non-Exempt
SENIOR PLANNING CLERK	NA	8	Non-Exempt	Non-Exempt
SENIOR SECRETARY	NA	8	Non-Exempt	Non-Exempt
SENIOR SECRETARY - POLICE	NA	8	Non-Exempt	Non-Exempt
UTILITY BILLING CLERK	NA	8	Non-Exempt	Non-Exempt
FLEET OPERATIONS CLERK	NB	8	Non-Exempt	Non-Exempt
HORTICULTURAL ASST IV	NB	8	Non-Exempt	Non-Exempt
BUILDING MAINTENANCE WORKER V	NC	8	Non-Exempt	Non-Exempt
LEAD WORKER	NC	8	Non-Exempt	Non-Exempt
PW WAREHOUSE ATTENDANT	NC	8	Non-Exempt	Non-Exempt
TRAFFIC TECHNICIAN	NC	8	Non-Exempt	Non-Exempt
WATER SERVICE REPRESENTATIVE	NC	8	Non-Exempt	Non-Exempt
BACKFLOW PREVENTION TECHNICIAN	ND	8	Non-Exempt	Non-Exempt
DISPATCHER	ND	8	Non-Exempt	Non-Exempt
DRIVER - SOLID WASTE	ND	8	Non-Exempt	Non-Exempt
ASSOCIATE PRODUCER	NA	7	Non-Exempt	Non-Exempt
CUSTOMER SERVICE REPRESENTATIVE	NA	7	Non-Exempt	Non-Exempt
INSPECTIONS CLERK	NA	7	Non-Exempt	Non-Exempt
OFFICE AND RECORDS ASST	NA	7	Non-Exempt	Non-Exempt
PEG ACCESS OFFICE COORDINATOR	NA	7	Non-Exempt	Non-Exempt
POLICE CLERK	NA	7	Non-Exempt	Non-Exempt
SECRETARY	NA	7	Non-Exempt	Non-Exempt
TRANSCRIPTIONIST	NA	7	Non-Exempt	Non-Exempt
LEAD CUSTODIAN	NB	7	Non-Exempt	Non-Exempt
AIRPORT MAINTENANCE WORKER III	NC	7	Non-Exempt	Non-Exempt
EQUIPMENT MECHANIC I	NC	7	Non-Exempt	Non-Exempt
MAINTENANCE WORKER IV	NC	7	Non-Exempt	Non-Exempt
METER MAINTENANCE WORKER	NC	7	Non-Exempt	Non-Exempt
PARKING ENFORCEMENT OFFICER	NC	7	Non-Exempt	Non-Exempt
MAINTENANCE WORKER IV - WATER LICENSE	ND	7	Non-Exempt	Non-Exempt
SENIOR CLERK TYPIST	NA	6	Non-Exempt	Non-Exempt
HORTICULTURAL ASST III	NB	6	Non-Exempt	Non-Exempt
BUILDING MAINTENANCE WORKER III	NC	6	Non-Exempt	Non-Exempt
MAINTENANCE WORKER III	NC	6	Non-Exempt	Non-Exempt
METER READER	NC	6	Non-Exempt	Non-Exempt
MAINTENANCE WORKER III - WATER LICENSE	ND	6	Non-Exempt	Non-Exempt
CUSTODIAN	NB	5	Non-Exempt	Non-Exempt
EQUIPMENT MAINTENANCE WORKER	NB	5	Non-Exempt	Non-Exempt
EXPEDITER	NB	5	Non-Exempt	Non-Exempt
MAINTENANCE WORKER II	NC	5	Non-Exempt	Non-Exempt
ANIMAL CARETAKER	ND	5	Non-Exempt	Non-Exempt
GROUNDSKEEPER	NC	4	Non-Exempt	Non-Exempt
MAINTENANCE WORKER I TEMP	NC	4	Non-Exempt	Non-Exempt

City of Fayetteville
Position Titles and Grades

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Uniformed Position Titles

Fire Department

BATTALION CHIEF

CAPTAIN

DRIVER/EQUIPMENT OPERATOR

FIREFIGHTER

**Current
Exemption
Status**

**Exemption
Status
Proposed**

Non-Exempt

50/50

Non-Exempt

50/50

Non-Exempt

Non-Exempt

Non-Exempt

Non-Exempt

Police Department

CAPTAIN

LIEUTENANT

SERGEANT

OFFICER

Exempt

50/50

Non-Exempt

50/50

Non-Exempt

Non-Exempt

Non-Exempt

Non-Exempt

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 6, 2006**

A meeting of the Fayetteville City Council will be held on July 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 given by Johanson Group. – Agenda Session Only

A. CONSENT:

- 1. Approval of the June 20, 2006 City Council meeting minutes.**
- 2. Park Land Dedication for Mountain Ranch Phase One:** A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

B. UNFINISHED BUSINESS:

- 1. Duncan Associates Water & Wastewater Impact Fee Update:** A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

C. PUBLIC HEARINGS:

1. **Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.
2. **Raze and Removal at 107 East 7th Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

D. NEW BUSINESS:

1. **ADM 06-2152 Wellspring Ruppel MSP Amendment:** A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.
2. **State and Tribal Assistance Grant (STAG):** A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U. S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.
3. **Davis Business Planning:** An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.

E. INFORMATIONAL:

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

City Council Meeting Date

Department

Approval of a resolution to approve Parks and Recreation Advisory Board's recommendation of accepting approximately 0.78 acres of land and approximately \$63,547 in services to meet the Park Land Dedication requirements of Mountain Ranch Development phase one.

Program Category / Project Name

Program / Project Category Name

Fund Name

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office

Received in Mayor's Office

6/16/06
Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Mayor Dan Coody and City Council Members

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

From: Alison Jumper, Park Planner

Date: June 12, 2006

Subject: Park Land Dedication Resolution for Mountain Ranch Phase I

BACKGROUND

Mountain Ranch Development is located on the west side of I-540 between Hwy. 16 and Hwy 62. The owner is Reserve, LLC. and Jorgensen and Associates is the engineer. Phase one of the development contains 117 single family units. The requirement for park land is 2.81 acres and money in lieu is \$64,935. The Boys and Girls Club and Dale Clark park are located within a half mile service area of this development, however given the number of units that will be added in all of the phases, park land is recommended.

Updates to the Park Land Dedication Ordinance was approved by Council on May 2nd 2006 and have been in effect since June 2, 2006; however, the Mountain Ranch development was presented to Parks and Recreation Advisory Board in 2004 under the previous ordinance which requires a resolution by City Council to allow the project to dedicate anything other that land for their Park Land Dedication requirements.

The previous Park Land Dedication Ordinance states if a major development is over 40 acres or 100 units, the requirement is land.

■...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study. • (Unified Development Ordinance No. 166.03K)

The development was presented to the Parks and Recreation Advisory Board on November 8th, 2004.

DISCUSSION

Parks and Recreation Advisory Board made a recommendation to accept land for the dedication requirements with the final location to be determined by Park Staff after full development. It was determined that park land in a subsequent phase would best fit the needs of the development, making a Resolution by the Council necessary for this phase.

The park land dedication requirements for Mountain Ranch Phase One and Phase Two will be met with the construction of Phase Two of the development. Phase two will include a land dedication of approximately 0.78 acres for trail corridor along Shiloh Drive as shown in the Fayetteville Alternative Transportation and Trails Master Plan. Additionally, the developer will construct the trail. Cost for the construction will be credited towards the park land dedication requirements for phases one and two which is approximately \$63,547.

Park Land Dedication requirements for the development should be met as recommended by Parks and Recreation Advisory Board regardless of the ownership of the property.

RECOMMENDATION

The Parks and Recreation Staff and PRAB recommend the dedication of land and money in lieu in the for the Park Land Dedication requirement of Mountain Ranch Phase One. If you have any questions, please call me at 444-3469.

Attachments:

Mountain Ranch Concept Plan
Park Location Map
PRAB November 8, 2004 Meeting Minutes
PRAB May 1, 2006 Meeting Minutes

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PARKS AND RECREATION ADVISORY BOARD'S RECOMMENDATION TO ACCEPT APPROXIMATELY .78 ACRES AND TRAIL CONSTRUCTION SERVICES VALUED AT APPROXIMATELY \$63,547.50 IN LIEU OF THE REQUIRED PARK LAND DEDICATION FOR MOUNTAIN RANCH DEVELOPMENT PHASE ONE.

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 Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and Trail Construction Services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

PASSED and APPROVED this 6th day of July, 2006.

ATTEST:

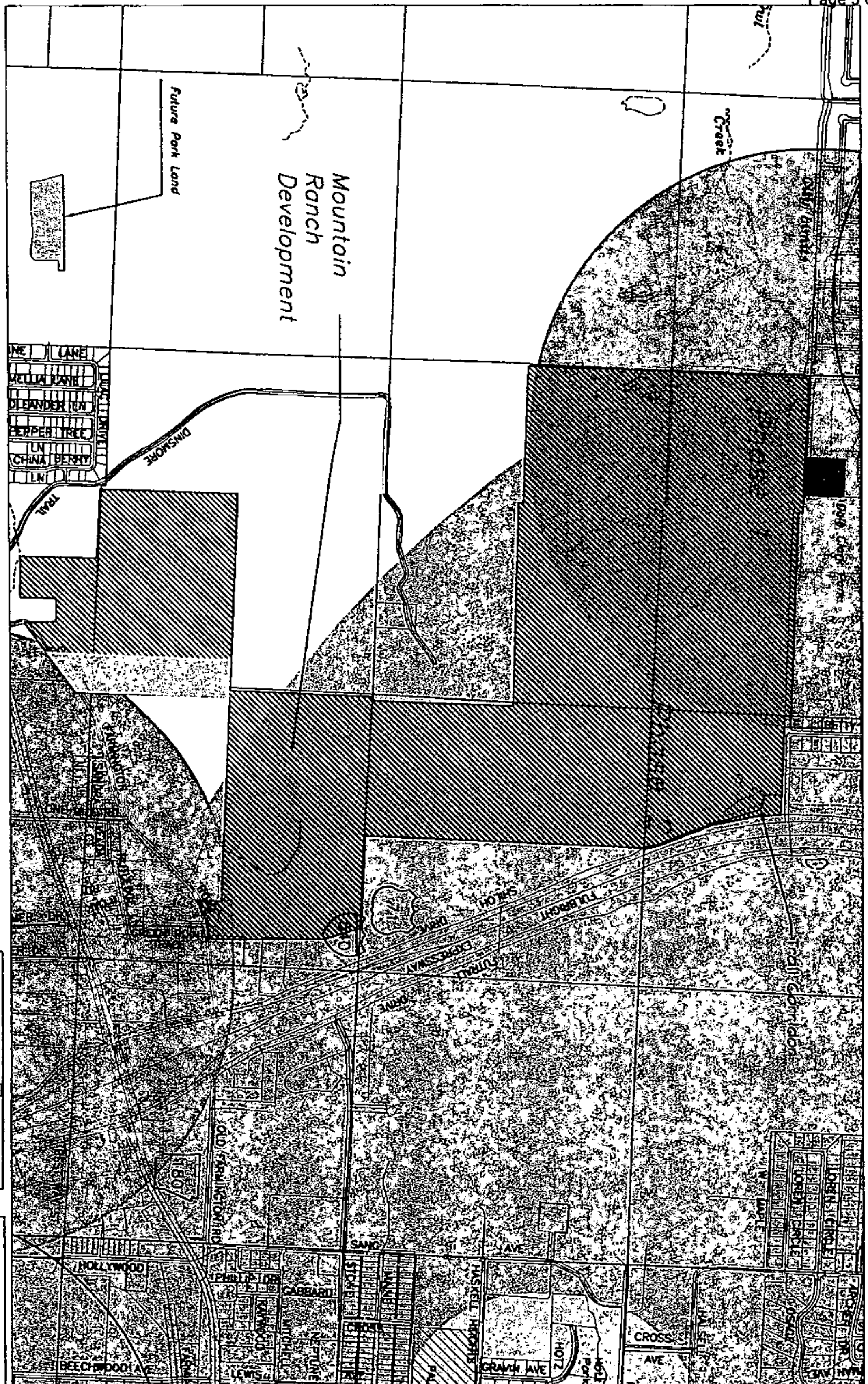
By:

SONDRA SMITH, City Clerk

APPROVED:

By:

DAN GOODY, Mayor

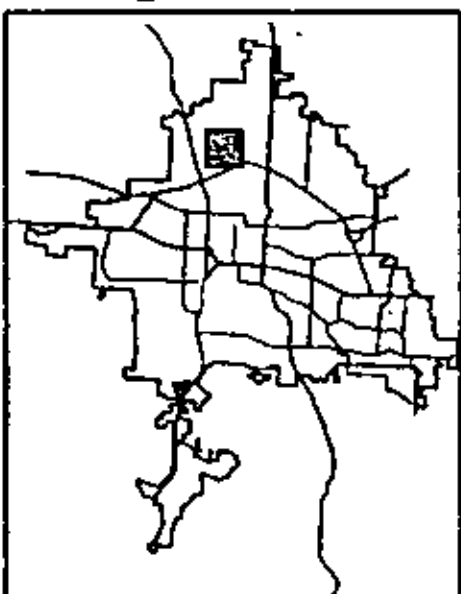


Mountain Ranch



Legend

- Existing Park Land
- Community Park Service Area
- Neighborhood Park Service Area
- Mini Park Service Area



PROXIMITY MAP	
Mtn. Ranch	
Tom Terminella	
DATE: 10/1/01	
SCALE: 1" = 1 MILE	
SHEET 1 OF 1	

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
November 8, 2004

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:34 p.m. on November 8, 2004 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Colwell.

Present:

Parks and Recreation Advisory Board members Colwell, Eads, Hill, Mauritson, Bailey, Marley, Shoulders, and Pawlik Holmes; City staff Wright, Jumper, Gipson, Weber, Hatfield, Edmonston, and Audience.

1. Park Land Dedication: Alison Jumper, Park Planner

Development Name: Mountain Ranch

Engineer: Crafton Tull and Associates

Owner: Tom Terminella

Location: South of Hwy. 16, West of I-540, near the intersection of what will be Ruppel Road and Persimmon.

Park District: SW

Units: 233 Single Family

Total Acres: 115.31

Land Dedication Requirement: 5.59 acres

Money in Lieu Requirement: \$129,315

Existing Parks: Dale D. Clark Park (8 acres); Boys & Girls Club

Developer's Request: Land dedication of approximately 5.6 acres.

Staff Recommendation: Land dedication of approximately 5.6 acres; the pond shall be filled and made usable as flat land, street frontage and visibility shall be provided when the second phase is developed. All costs associated with removal of the pond and returning the land into a dry condition shall be the responsibility of the developer.

Justification: Due to the number of homes that will be built in this area, a neighborhood park would be appropriate.

Jumper reviewed the map of the proposed park land, developer's request, and staff recommendation. During the second phase of this development the developer has agreed to gain street frontage for the park.

November 8, 2004 / 1

Mauritson asked if there will be connectivity to the park from Rupple Road.

Hatfield replied yes because there is potential to gain other land making street frontage available.

Mr. Terminella states that his main concern is that staff looks at this development on a regional level. He also thinks there should be waterways on the property.

Mr. Terminella explained there are certain opportunities in the Western Quadrant. He stated there are developers willing to work together to reach a mutual agreement on land dedication to create a larger park like Gulley Park. He asked if Park Staff can come up with an agreement on what other lands can be added to this dedication is he allowed to "bank" land.

Edmonston replied this has been allowed in the past and would not be a problem in this development as well.

Pawlik Holmes stated this is what Parks and Recreation would like to accept.

MOTION:

Mauritson moved to accept park land dedication requirements of 5.59 for acres with this phase of the development, with the final location to be determined by staff and developer after full development.

Eads seconded the motion.

The motion was approved 7-0-1 with Colwell, Mauritson, Marley, Eads, Bailey, Shoulders, and Pawlik Holmes voting 'yes' and Hill abstaining from the vote.

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes May 1, 2006

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Vice Chairman Jay Davidson at 5:35 P.M. on May 1, 2006 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members Bailey, Davis, Bitler, Burke, Langsner and Davidson were present; Colwell was absent; Trail Coordinator Mihalevich and Transportation Manager Gulley; Park Staff Coles, Jumper, Edmonston, Whillock and audience were in attendance.

1. Park Land Dedication: Alison Jumper, Park Planner

Development Name:	Mtn. Ranch Phase Two
Engineer:	Jorgensen & Associates
Owner:	Reserve, LLC
Location:	West of I-540 between Hwy. 62 and Hwy. 16.
Park District:	SW
Units:	117 single family phase one, 28 single family phase two
Total Acres:	
Land Dedication Requirement:	3.48 acres for both phases one and two
Money in Lieu Requirement:	\$80,475
Existing Parks:	None existing
Developer's Request:	Dedicate approximately .64 acres to for a 20' trail corridor along Shiloh as shown on the FATT plan and dedicate money in lieu for the remaining requirement to be used for trail construction.
Staff Recommendation:	Dedicate approximately .64 acres to for a 20' trail corridor along Shiloh as shown on the FATT plan and dedicate money in lieu for the remaining requirement. Money in lieu may be used by the City for trail construction or actual construction cost may be

May 1, 2006/ 1

Justification:

credited to the developer in the event the developer builds the trail. Park land and trail corridor are needed in this area according the Parks and Recreation Master Plan and the FATT plan. Park land for a neighborhood park is anticipated to be dedicated with phase three of this project which is on the western side near Ruppel Road. Additional park land is anticipated to be dedicated for future phases on the south border of this property near Old Farmington Road.

Davis asked if the developers will work with the City to meet requirements for the trail construction.

Jumper said they would be working with Mihalevich on design and location and the on-site construction will be coordinated with Gulley's crew.

Gulley explained the need for the developer to tie in the construction of the trail area with the construction of the entry to the development is critical to the progress of the project and with the other priorities of the City staff it was more cost effective to let the developers handle the project with City guidance.

Bitler asked if the 3.48 acres has been dedicated or is that part of the future development.

Jumper said the final plat has not been submitted so we will wait until a variance is processed since it's over 100 units.

Bitler asked if it's in the future and not guaranteed.

Jumper responded that is the case. She said we'd see each phase as it comes through. The developer has an overall plan and will be doing it in phases as they can.

Davidson asked if there's a time frame for Phase 3.

Hafemann, representing Reserve LLC, said it's in the future depending on how well each phase processes.

Jumper said there is talk of a neighborhood park in Phase 3 also.

Bitler asked if we could take land outside of that which is being developed.

Jumper said we can't require it. If the owner/developer wants to deed it to the City they can, but the City can't require it.

Edmonston explained some developers will bring all phases at one time and bank the required land dedication to draw from with each phase as developed. This developer wants to take care of each phase as it's developed.

Bitler asked if there's any concern about eventually acquiring the land.

Edmonston said the Boys and Girls Club is across the street from the proposed development and the new school on Ruppel will provide indoor and outdoor opportunity for activity and play areas for the surrounding areas.

PRAB Motion: Davis moved to accept Staff recommendation to accept .64 acres for a 20' trail corridor along Shiloh and accept money-in-lieu for the remaining requirement. Langsner seconded the motion. The motion carried 6-0-0 with Colwell absent for the vote. A second motion to recommend a waiver to accept park land and money-in-lieu for a future phase was made by Davis with second by Langsner. Vote carried 6-0-0 with Colwell absent for the vote.

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

B. 1
Duncan Associates Water &
Wastewater Impact Fee Update
Page 1 of 10

6/20/2006

City Council Meeting Date

Tim Conklin

Submitted By

Planning and Development Mgt

Division

Operations

Department

Action Required:

Approval of a resolution to accept a proposal from Duncan Associates to update the existing water and sewer impact fees, calculate fees for the collection system, and negotiate contracts with Elkins, Farmington, and Greenland to pay for and provide potential water and sewer impact fees within their corporate boundaries.

\$110,000

Cost of this request

\$ 12,300.00 -

Category / Project Budget

Program Category / Project Name

5400-1840-5314-00

Account Number

\$ 12,300.00 -

Funds Used to Date

Program / Project Category Name

05054-1

Project Number

\$ 0 -

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

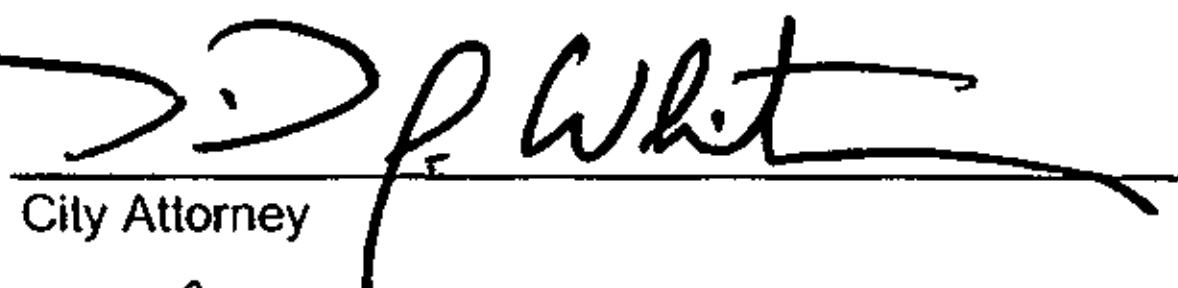
6-2-06

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

6/5/06
Date


Finance and Internal Service Director

6/6/06
Date

Received in City Clerk's Office



Received in Mayor's Office



Mayor

Date

Comments:

Tabled to 7/6/06 meeting 6/20/06

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council
THROUGH: Gary Dumas, Operations Director
Steve Davis, Finance and Internal Services Director
FROM: Tim Conklin, Planning and Development Director
DATE: June 2, 2006
SUBJECT: Approval of a resolution to accept a proposal from Duncan Associates to update the existing water and sewer impact fees, calculate fees for the collection system, and negotiate contracts with Elkins, Farmington, and Greenland to pay for and provide potential water and sewer impact fees within their corporate boundaries.

RECOMMENDATION

Staff recommends approval of a resolution to accept a proposal from Duncan Associates to update the existing water and sewer impact fees, calculate fees for the collection system, and negotiate contracts with Elkins, Farmington, and Greenland to pay for and provide potential water and sewer impact fees within their corporate boundaries.

BACKGROUND

The City of Fayetteville approved a bid waiver ordinance on October 18, 2006 to hire Duncan Associates to complete Phase 1 of the contract in the amount of \$12,300. Phase 1 included the development of the scope of work and contract to update the existing fees to include the wastewater interceptor and collection system. The current fees are based on the historical and estimated costs for the water transmission, storage, and distribution system and the estimated costs for the planned 10 million gallons per day wastewater treatment plant capacity improvements. The wastewater fee did not include the proposed collection system and associated lift stations.

Staff is recommending updating the existing 2002 calculated water and wastewater impact fees to: 1) reflect current construction costs; 2) calculate impact fees for new capacity created as part of wastewater collection system; and 3) calculate specific impact fees for outside jurisdictions served by the Fayetteville system.

Most communities update their fees on a three-to five-year cycle to reflect fluctuations in infrastructure construction costs.

BUDGET IMPACT

The update to the existing impact fees and adding in the collection system will allow new development to pay its proportionate share of infrastructure capacity costs.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A PROPOSAL FROM DUNCAN ASSOCIATES IN THE AMOUNT OF \$110,000.00 TO UPDATE THE EXISTING WATER AND WASTEWATER IMPACT FEES, TO CALCULATE FEES FOR THE COLLECTION SYSTEM, AND NEGOTIATE CONTRACTS WITH THE CITIES OF ELKINS, FARMINGTON AND GREENLAND TO PAY FOR AND PROVIDE POTENTIAL WATER AND WASTEWATER IMPACT FEES WITHIN THEIR CORPORATE BOUNDARIES.

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 accepts a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. A Scope of Services for the proposal, marked Exhibit "A" is attached hereto and made a part hereof.

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

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH City Clerk

DRAFT

SCOPE OF SERVICES

PROJECT UNDERSTANDING AND APPROACH

Fayetteville's water and wastewater system provides service to a number of other jurisdictions. The water system is the most regional—with the exception of the City of Elkins, which owns the distribution system within its city limits, the City owns all of the facilities that serve its water customers, and bills individual customers directly. Out-of-city retail water customers include Johnson, Goshen, Farmington, Greenland and parts of unincorporated Washington County.

The wastewater system is less of an integrated regional system. Goshen does not participate in the City's wastewater system, and Farmington, Greenland and Elkins own the sewer collection systems within their city limits.

Jurisdiction	Water System Ownership	Sewer System Ownership	Billing
Fayetteville	Fayetteville	Fayetteville	Fayetteville - Individual Customers
Johnson	Fayetteville	Fayetteville	Fayetteville - Individual Customers
Washington Co. (parts)	Fayetteville	Fayetteville	Fayetteville - Individual Customers
Goshen	Fayetteville	N/A	Fayetteville - Individual Customers
Farmington	Fayetteville	Farmington	Fayetteville - Individual Customers
Greenland	Fayetteville	Greenland	Fayetteville - Individual Customers
Elkins	Elkins	Elkins	Elkins (Wholesale Customer)

This project will produce potentially four (4) impact fee reports – Fayetteville (water and wastewater), Elkins (water and wastewater), Farmington (wastewater) and Greenland (wastewater). Analyses for Farmington, Greenland and Elkins will be undertaken if the consultant is directed to proceed, before commencement of the Fayetteville analysis. Each impact fee will be calculated based on projected future demand, and the cost of planned future capital facilities attributable to that demand (an "improvements based" fee). As appropriate each fee will also include the value of current excess capacity, calculated based on acquisition cost (a "recoupment fee").

Water Impact Fees

Fayetteville

This fee will include water supply, transmission, storage and distribution facilities and parts of facilities (existing and planned future) attributable specifically to demand within Fayetteville. The fee will be assessed within Fayetteville.

Elkins

This fee will include local (in-town) transmission, storage and distribution system facilities and parts of facilities (existing and planned future) attributable specifically to demand within Elkins. This fee will be assessed within Elkins.

Wastewater

Fayetteville

This fee will include (existing and planned future) treatment plant, interceptors, lift stations, and collection system facilities, or parts of facilities, along with piping required to divert existing flows to the new plant, as is specifically attributable to demand within Fayetteville. The fee will be assessed within Fayetteville

Elkins

This fee will include local (in-town) transmission and collection system facilities and parts of facilities (existing and planned future) attributable to demand within Elkins. This fee will be assessed within Elkins.

Farmington

This fee will include local (in-town) transmission and collection system facilities and parts of facilities (existing and planned future) attributable to demand within Farmington. This fee will be assessed within Farmington.

Greenland

This fee will include local (in-town) transmission and collection system facilities and parts of facilities (existing and planned future) attributable to demand within Greenland. This fee will be assessed within Greenland.

Methodology Notes

Fees will include service area specific revenue credits (debt, grants and sales tax contributions, for example) and deficiency correction credits, as may be applicable.

For the client communities (Elkins, Farmington and Greenland), and in the interest of cost savings, the analytical process will be coordinated by Fayetteville – i.e., data acquisition, communications, distribution of work product and compilation of comments, and all other interchange with client communities will be accomplished by Fayetteville staff. In support of a cost-efficient approach, we have also not scheduled meetings with, or presentations for, client communities. Instead we welcome their attendance at meetings scheduled with Fayetteville. With respect to impact fee reports for client communities, we will produce one draft report and, based on comments, a revised final report.

The analyses will require land use inventories and projections for each of six service areas¹ (by impact fee property type) projected based on the same time frame for all service areas, and matching the capital improvement plan (CIP) time frame, which will be provided by Fayetteville.

Each of the impact fees (as above) will require information to support analysis of current

¹ Water – Fayetteville retail and Elkins service areas. Wastewater – Fayetteville retail, Elkins, Farmington, and Greenland service areas. Property types include Single Family (dwelling unit), Multi Family (dwelling unit), Hotel (rooms), Retail, Office, Industrial, and Institutional/Other (1,000 square feet)

deficiencies and debt, for impact fee credits. This information will be provided by Fayetteville. (Some or all of the information is likely to be on-hand, given the need for periodic demand planning.)

The treatment component of the wastewater fee will include the value of plant capacity (new and existing, and capacity that will be made available by implementation of the new plant) and will be calculated based on an undifferentiated average cost per service unit (same cost per demand unit throughout the service area). The City proposes that treatment capacity be defined to include both plants and "appurtenances" - i.e., the existing and new plant, and that part of existing and planned transmission facilities needed to integrate the elements of the treatment system.

The supply component of the water fee will include the value of current excess capacity and planned new capacity (as derived from the facility master plan) and will be calculated based on an undifferentiated average cost per service unit (same cost per demand unit throughout the service area).

Allocation of the beneficial use of wastewater and water facilities by service area - e.g. defining the share and quantifying the value of CIP costs uniquely attributable to each service area - will be based on analysis provided by Fayetteville.

Credits for sales tax contributions (as may be attributable to each service area) will be defined by consultant based on analysis to quantify the share of tax revenue attributable to each service area. This share analysis will be provided by Fayetteville. Likewise, analysis to quantify and value current deficiencies by service area will be provided by Fayetteville. The value of potential debt service credits will be quantified by consultant, based on debt information provided by Fayetteville.

Cost for future facilities will be based on existing facility plans, updated as may be appropriate, by staff estimates.

Design years for wastewater plant and underground are different. The plant design year is about 2020. Wastewater transmission/collection design year, after completion of projects in the current master plan, is thought to be build-out. This may require analysis to realign and match the planning periods - for example, by quantifying additional plant capacity needed between 2020 and build-out. Analysis to define and value new capacity will be provided by Fayetteville.

It is our understanding that, for the wastewater system, stranded transmission and collection system costs attributable to current service provision in Farmington will be recovered by means of separate agreement with Farmington users. Analysis of stranded costs is not included as part of this project.

Each fee will be calculated based on number of (single family equivalent) demand units, and projected land use by property type, which will be provided by Fayetteville. This will be the basis for calculation of future service demand, and the amount of each impact fee.

GIS support for production of maps, and other analysis as may be appropriate, will be provided by the City.

This project does not include revisions to the City's impact fee ordinance, which will be handled by the City Attorney. Participating client communities will be provided with a sample impact fee ordinance.

WORK TASKS AND DELIVERABLES

Phase II: Implementation

This second phase entails the preparation of the impact fee study and attendance at public meetings for review and adoption of the revised impact fee ordinance.

Task 2.1: Draft Impact Fee Study

In this task, the Consultant will prepare the initial draft of the water and wastewater impact fee studies. The report will describe the methodology and formula used to calculate the fees, document all data sources and assumptions, and include a fee schedule that represents the fees that could be charged. At least one full working draft will be delivered to City staff for review and comment prior to delivery of the draft study.

Deliverable: Draft Impact Fee Study

Task 2.2: Final Impact Fee Study

Following review and comment on the draft study by City staff and/or an advisory committee, the Consultant will make appropriate revisions and provide the final drafts.

Deliverable: Final Impact Fee Study

Task 2.3: Local Meetings and Presentations

The Consultant will make up to three person-days of travel to Fayetteville to meet with staff, the City Council and/or other review bodies. Additional participation in meetings may be provided on a time-plus expense or flat-rate basis.

Deliverables: Three (3) Person-Trips

PROJECT COST

Total fee for professional services included in the scope of services is \$110,000. The City will be billed monthly for percent completion of each task. Cost includes all direct and indirect expenses incurred by Consultants in performing the services, including travel expenses. Additional services beyond those in the scope of services may be negotiated separately or billed on a time plus expenses basis. Fayetteville will be billed for analyses for Farmington, Greenland and Elkins only if the consultant is directed to proceed, before commencement of the Fayetteville analysis. The City of Fayetteville will be responsible for payment of the total amounts shown for Fayetteville and any participating client cities.

Task	Fayetteville	Elkins	Farmington	Greenland	Total
2.1: Draft Impact Fee Study	\$43,105	\$21,473	\$12,884	\$12,884	\$90,346
2.2: Final Impact Fee Study	\$7,095	\$3,527	\$2,116	\$2,116	\$14,854
2.3: Meetings (3 person- days)	\$4,800	\$0	\$0	\$0	\$4,800
Total	\$55,000	\$25,000	\$15,000	\$15,000	\$110,000

PROJECT SCHEDULE

The project schedule outlined in the scope of services is summarized in the following flowchart. As shown below, the second phase could be completed in six months.

Tasks	Months from Project Start					
	1	2	3	4	5	6
2.1: Draft Impact Fee Study						
2.2: Final Impact Fee Study						
2.3: Meetings	x				x	x

x = meeting/presentation

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

B. 1
Duncan Associates Water &
wastewater impact fee update
Adjustment Number 9 of 10

Budget Year 2006	Department: Operations Division: Meter Operations Program: Meter Capital	Date Requested 6/20/2006
-------------------------	--	---------------------------------

Project or Item Added/Increased: \$55,000 is requested in the Professional Services account of the Impact Fee Update - Water/Wastewater capital project.	Project or Item Deleted/Reduced: \$55,000 is proposed from the Contract Services (reimbursement) account in the Impact Fee Update - Water/Wastewater capital project. None. The use of \$55,000 from the Use of Fund Balance in the Water & Sewer Fund is proposed.
--	--

Justification of this Increase: Funding is for a Water/Wastewater Impact Fee Update for the Cities of Fayetteville, Farmington, Elkins, and Greenland.	Justification of this Decrease: \$55,000 is the cost share portion coming from the other cities. The remaining \$55,000 is the portion to be paid by the City of Fayetteville. Sufficient funding remains to comply with City policy.
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5400	1840	5314	00	110,000	05054	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	5400	0940	4999	99	55,000		
Contract serv (reimb)	5400	0940	6490	00	55,000	05054	1

Approval Signatures

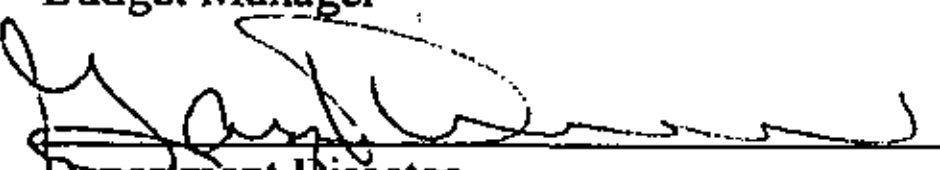
Budget Office Use Only

 6-15-06
Requested By Date

Type: A B C D E

Budget Manager _____ Date _____

Posted to General Ledger

 6-16-06
Department Director Date

Initial _____ Date _____

Finance & Internal Services Director _____ Date _____

Posted to Project Accounting

Initial _____ Date _____

Mayor _____ Date _____

Entered in Category Log

Initial _____ Date _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 1
Raze and Removal at
95 Cleburn Street
Page 1 of 14

6-Jul-06

City Council Meeting Date

Yolanda Fields

Submitted By

Com Res & Code Comp

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 95 Cleburn Street, Fayetteville, AR 72701

\$4,000.00

Cost of this request

\$25,000

Category/Project Budget

1010 6420 5315 00

Account Number

\$10,500.00

Funds Used to Date

Contract Services

Program / Project Category Name

\$14,500.00

Remaining Balance

General Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED

6-15-06

Received in Mayor's Office

ENTERED

6/16/06

BRP

Mayor

Date

Staff recommends Raze and Removal of structure

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations 
From: Yolanda Fields, CRCC Director
Date: June 14, 2006
Subject: Raze & Removal of structure on 95 Cleburn Street

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BACKGROUND

Service Request #34396, Case #4601: Code Compliance responded to a complaint concerning the structure located at 95 Cleburn Street, recognized on Washington County records as 867 N College Ave. The structure appeared to possibly be in violation of Ordinance 173.08, Unsafe Buildings. The Building Safety Division Director inspected the property and determined that the structure was in violation of Ordinance 173.08, Unsafe Buildings.

An Unsafe Buildings Notice of Violation was sent by Certified Mail to the property owner on April 17, 2006. The property owner signed the Certified Mail receipt on April 18, 2006. By ordinance, the owner were given until May 18, 2006 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains a partially razed structure. There is not a current building permit issued on this structure.

BUDGET IMPACT

Contracting the raze and removal of the property would cost approximately \$4,000.00. The cost would be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY BEACON FLATS, LLC LOCATED AT 95 CLEBURN STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS

WHEREAS, Beacon Flats, LLC is the record owner of the real property situated at 95 Cleburn Street, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-03828-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, Beacon Flats, LLC, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Beacon Flats, LLC is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if Beacon Flats, LLC does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and APPROVED this 6th day of July, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

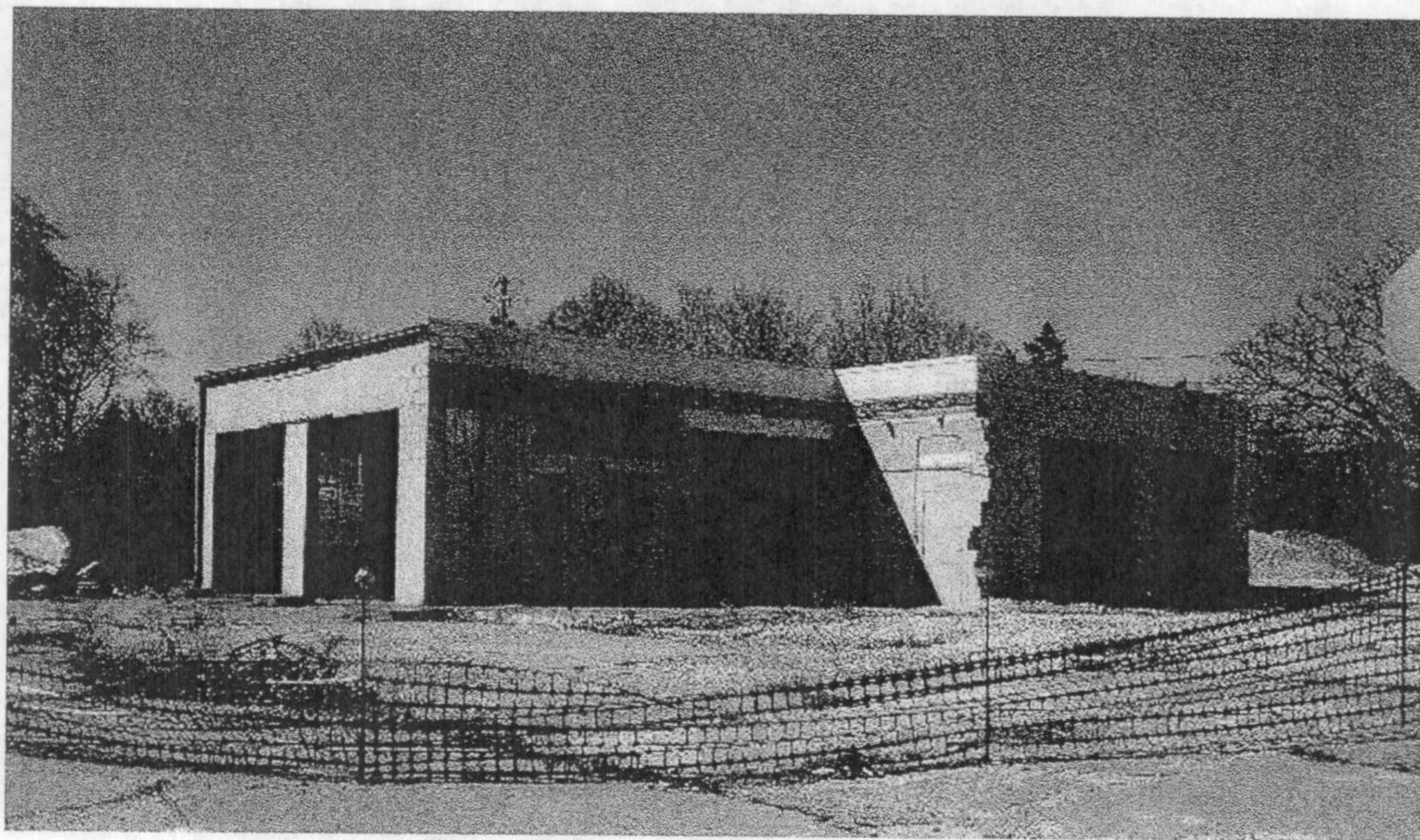
ATTEST:

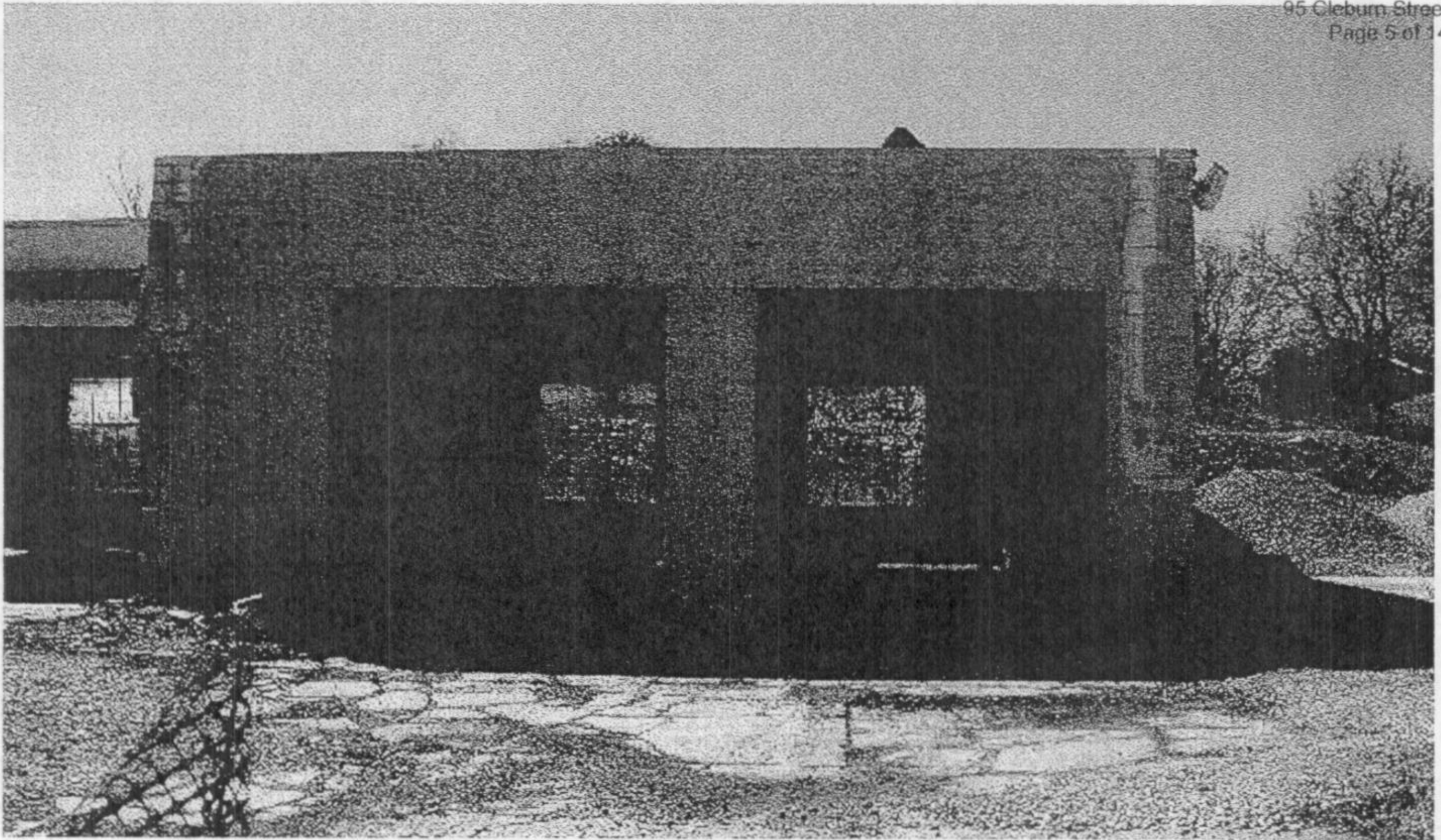
By: _____

SONDRA SMITH, City Clerk

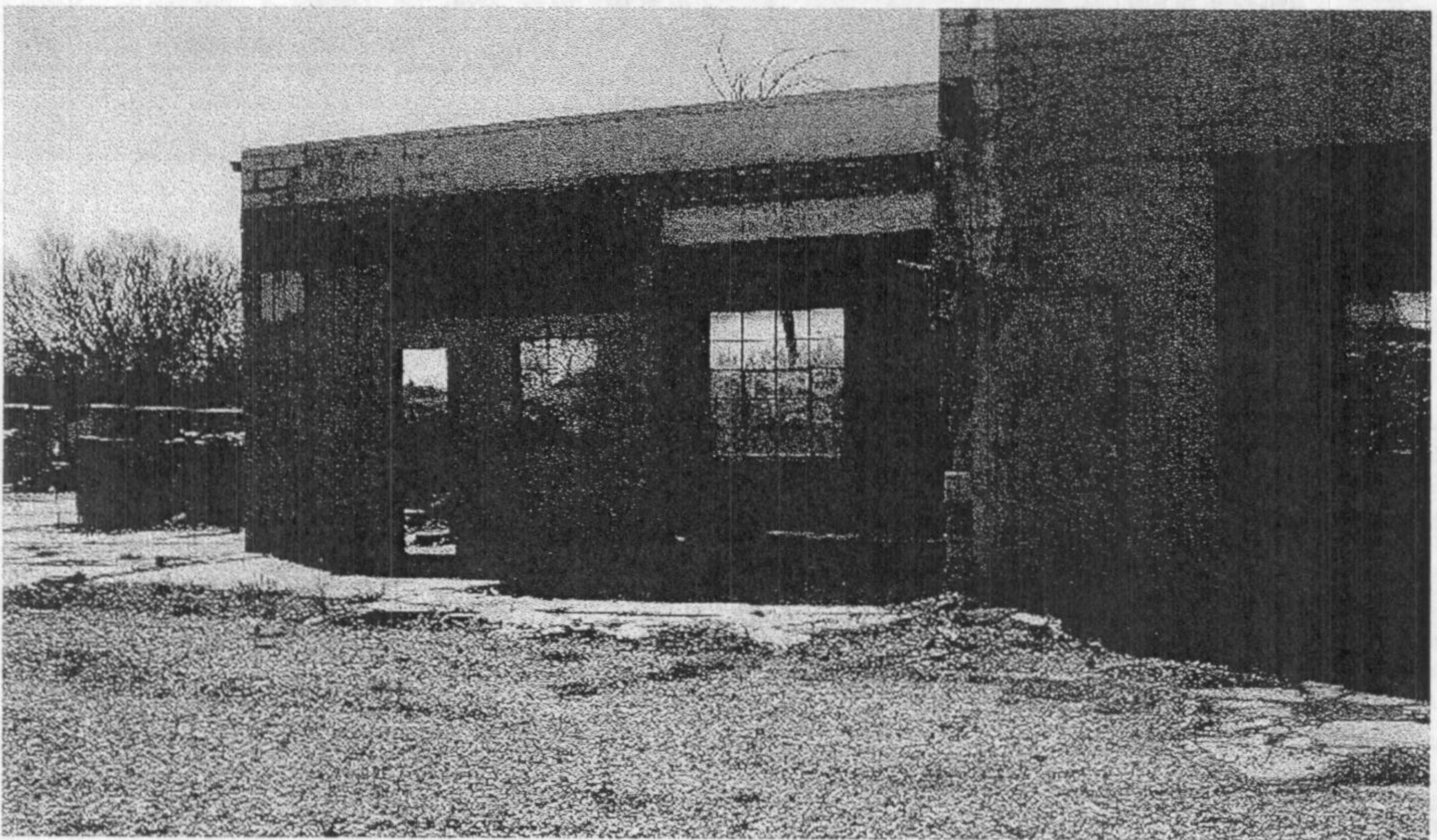


95 E. Cleburn St. 6-13-06





95 E. Cleburn St. 6-13-06



CRCC Division Director



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

May 24, 2006

Beacon Flats, LLC
c/o Carlen Hooker
397 W Poplar St. Suite 5
Fayetteville, AR 72701

RE: Enforcement of Ordinance 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 95 Cleburn St. (Parcel #765-03828-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on July 6, 2006 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Ball", written over a horizontal line.

Chad Ball
Code Compliance Administrator

Cc: file

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Sandy Mayo</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: Beacon Flats, LLC c/o: Carlen Hooker 397 W. Poplar St. Suite 5 Fayetteville, AR 72701		B. Received by (Printed Name) <i>S. Mayo</i> C. Date of Delivery <i>5-25-06</i>	
2. Article Number (Transfer from service label) 7004 2510 0000 8363 4148		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
PS Form 3811, February 2004 Domestic Return Receipt AB 102595-02-M-1540		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	

7004 2510 0000 8363 4148

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
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For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	5.24.06
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <i>Beacon Flats, LLC</i> Street, Apt. No., or PO Box No. <i>c/o Carlen Hooker</i> City, State, ZIP+4 <i>Not to</i>	
PS Form 3800, June 2002 See Reverse for Instructions	

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



C. 1
Raze and Removal at
95 Cleburn Street
Office of Code Compliance Page 9 of 14
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

April 17, 2006

Owner BEACON FLATS, LLC.
C/O: CARLEN HOOKER
397 W. POPLAR ST. STE: 5
FAYETTEVILLE, AR 72701

RE: Property @ 95 E. CLEBURN ST.
FAYETTEVILLE, AR
WC Parcel # 765-03828-000

Case # 4601

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479) 575-8232.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

SUZANNE BUTLER
Code Compliance Officer

Cc: file

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Sondy Mayo</i> ☒ Agent ☐ Addressee	
		B. Received by (Printed Name) <i>S Mayo</i> C. Date of Delivery <i>4/18</i>	
1. Article Addressed to: Beacon Flats, LLC. c/o: Carlen Hooker 397 W. Poplar St. Ste:5 Fayetteville, AR 72701		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
2. Article Number (Transfer from service label) 7004 2510 0000 8363 3547		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
PS Form 3811, February 2004		4. Restricted Delivery? (Extra Fee) ☐ Yes	
		Domestic Return Receipt <i>4601</i> <i>SB</i> 102595-02-M-1540	

7004 2510 0000 8363 3547

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here *4-17-06*

Sent To *Beacon Flats*
 Street, Apt. No., or PO Box No. *c/o Carlen Hooker*
 City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

Parcel Number: 765-03828-000 Prev. Parcel Number: 137566-000-00 Type: CI
 Location: 867 N COLLEGE AVE
 Owner Name: BEACON FLATS,LLC
 Mailing Address: 329 W. POPLAR FAYETTEVILLE AR 72701
 Lot: Block: S-T-R: 09-16-30
 Addition: CITY PARK ADD-A.L.TRENTS REV
 School District: FAYETTEVILLE SCH, FAY Tax District: 011
 City: FAYETTEVILLE
 Legal: LOT 1 EXCEPT EAST 4 FT. BLOCK 12
 Current Year A79 Credit Status: N

	Appraised Value	Taxable Value
Land	52,500	10,500
Improvement	20,650	4,130
Total	73,150	14,630

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Tax History			Net Total Tax	Total Tax Paid	Payment Status
					Voluntary Tax	A79 Credit	A79 Status			
2005	14,630	\$771.00	\$0.00	\$0.00	\$0.00		N	\$771.00	\$0.00	
2004	15,470	\$802.27	\$0.00	\$0.00	\$0.00			\$802.27	\$802.27	PAID
2003	15,420	\$816.64	\$0.00	\$0.00	\$0.00			\$816.64	\$816.64	PAID
2002	16,164	\$839.88	\$0.00	\$0.00	\$0.00			\$839.88	\$839.88	PAID
2001	14,817	\$769.89	\$0.00	\$0.00	\$0.00			\$769.89	\$769.89	PAID
2000	13,470	\$707.18	\$0.00	\$0.00	\$0.00			\$707.18	\$707.18	PAID
1999	13,470	\$689.66	\$0.00	\$0.00	\$0.00			\$689.66	\$689.66	PAID
1998	13,470	\$691.01	\$0.00	\$0.00	\$0.00			\$691.01	\$691.01	PAID
1997	13,470	\$691.01	\$0.00	\$0.00	\$0.00			\$691.01	\$691.01	PAID
1996	13,470	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID
1995	13,470	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID

Available Tax Payment Receipt(s)								
Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2004	4584	4/6/2005	\$802.27	\$0.00	\$0.00	\$0.00	\$0.00	\$802.27
2003	70088	9/20/2004	\$816.64	\$0.00	\$0.00	\$0.00	\$0.00	\$816.64
2002	78416	9/24/2003	\$839.88	\$0.00	\$0.00	\$0.00	\$0.00	\$839.88
2001	66364	9/25/2002	\$769.89	\$0.00	\$0.00	\$0.00	\$0.00	\$769.89
2000	11243	9/18/2001	\$707.18	\$0.00	\$0.00	\$0.00	\$0.00	\$707.18
1999	5299	8/22/2000	\$689.66	\$0.00	\$0.00	\$0.00	\$0.00	\$689.66
1998	10782	7/26/1999	\$691.01	\$0.00	\$0.00	\$0.00	\$0.00	\$691.01

Deed History							
Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
2/8/2005	2005	6186	BEACON FLATS,LLC		WD	297,000	980.10
LMB FOR 2005: 0.02A TO #03829-002 CITY OF FAYETTEVILLE SN 2005-6186 WD \$980.1 REV(297M)							
1/19/1998	98	5589	NICKELL, J.C. JR TTEE TRUST;	NICKELL, ALMA L. TTEE TRUST	WD	0	0.00
LRR 98-5589 WD NO REV TO TRUSTS 1/2 INT EACH TRUST							

Real Estate Parcel Information

Page 2 of 2

2/20/1996 96 13711 NICKELL, J.C., JR.
NO REV

QC 0 0.00

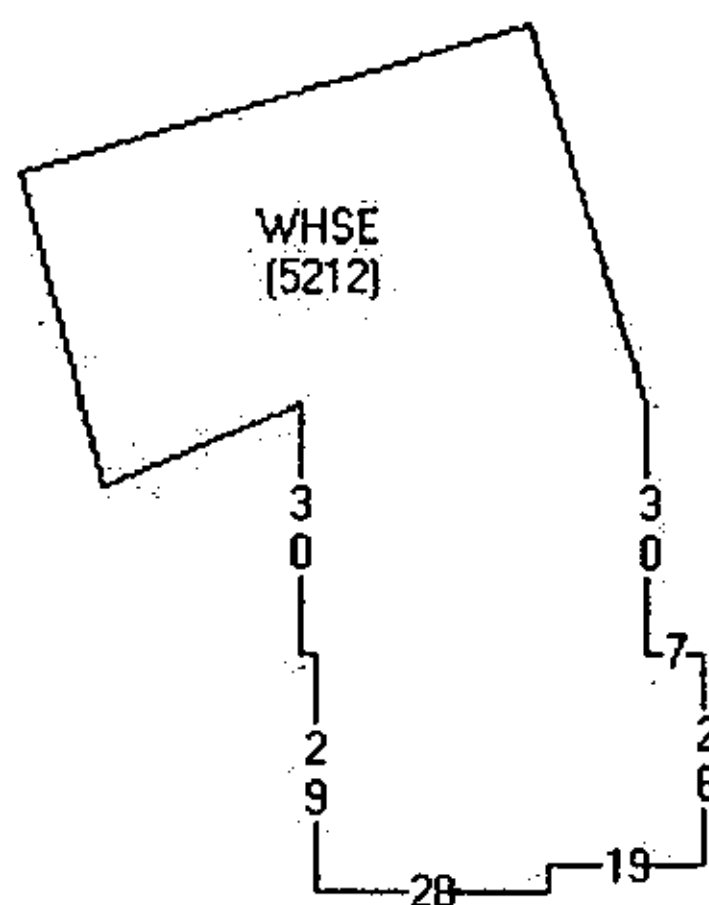
Raze and Removal at
95 Cleburn Street
Page 12 of 14

1/1/1985 823 955 NICKELL, J.C. JR. &
LORNA JEAN

WD 0 0.00

Structure Number	Business Name	Year Constructed	Heated Area
1	Nicks Auto Lube Repair & Ser.	1953	5212
Grade	Condition	Story Height	Year Remodeled Exterior Wall
			4

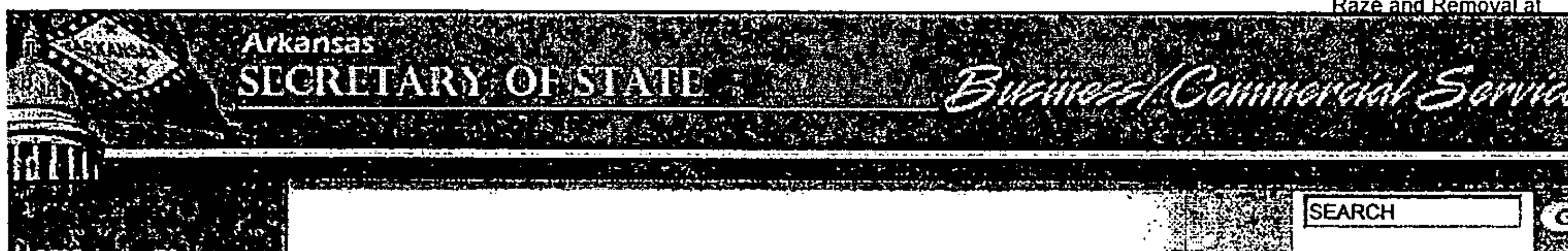
Sketch:



Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	CANOPIES	580	
1	LIFT, FRAME		
2	LIGHTING		
1	PAVING	3700	
1	SIGNS, PLASTIC ILLUM.	36	
3	SIGN POSTS OR POLES	6x20	

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State Capitol, Rm 256
Little Rock, AR 72201
501-682-1010
[Email](#)



Search Incorporations, Cooperatives, Banks and Insurance Companies

Corporation Name	BEACON FLATS, LLC
Fictitious Names	N/A
Filing #	800050860
Filing Type	Limited Liability Company
Filed under Act	Domestic LLC; 1003 of 1993
Status	Good Standing
Principal Address	
Reg. Agent	CARLEN HOOKER
Agent Address	397 W. POPLAR SUITE 5 FAYETTEVILLE, AR 72701
Date Filed	01/27/2005
Officers	CARLEN HOOKER , Incorporator/Organizer
Foreign Name	N/A
Foreign Address	
State of Origin	N/A

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for this Entity](#)

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City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 2
Raze and Removal at
107 East 7th Street
Page 1 of 14

6-Jul-06

City Council Meeting Date

Yolanda Fields

Submitted By

Com Res & Code Comp

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 107 E 7th Street, Fayetteville, AR 72701

\$7,000.00

Cost of this request

\$25,000

Category/Project Budget

1010 6420 5315 00

Account Number

\$10,500.00

Funds Used to Date

Contract Services

Program / Project Category Name

\$14,500.00

Remaining Balance

General Fund

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

6/15/06

Received in Mayor's Office

ENTERED

6/16/06

Rep

Department Director

Date

6-15-06

City Attorney

Date

6/16/06

Finance and Internal Service Director

Mayor

Date

6/19/06

Staff recommends Raze and Removal of structure.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations 
From: Yolanda Fields, CRCC Director
Date: June 14, 2006
Subject: Raze & Removal of structure on 107 E 7th Street

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BACKGROUND

Service Request #35316, Case #4572: Code Compliance responded to a complaint concerning the original structure located at 107 E 7th Street, recongnized on Washington County records as 700 S College Ave. The structure appeared to possibly be in violation of Ordinance 173.08, Unsafe Buildings. The Building Safety Division Director inspected the property and determined that the structure was in violation of Ordinance 173.08, Unsafe Buildings.

An Unsafe Buildings Notice of Violation was sent by Certified Mail to the property owner on April 03, 2006. The property owner signed the Certified Mail receipt on April 05, 2006. By ordinance, the owner were given until May 06, 2006 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains two structures. The address of the structure in violation is 107 E 7th Street and faces 7th Street. There is not a current building permit issued on this structure.

BUDGET IMPACT

Contracting the raze and removal of the property would cost approximately \$7,000.00. The cost would be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY JAMES L. LEDBETTER AND SUZETTE L. MAESTRI LOCATED AT 107 EAST 7TH STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS

WHEREAS, James L. Ledbetter and Suzette L. Maestri are the record owners of the real property situated at 107 East 7th Street, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-05651-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, James L. Ledbetter and Suzette L. Maestri, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, have refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, James L. Ledbetter and Suzette L. Maestri are hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if James L. Ledbetter and Suzette L. Maestri do not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and APPROVED this 6th day of July, 2006.

APPROVED:

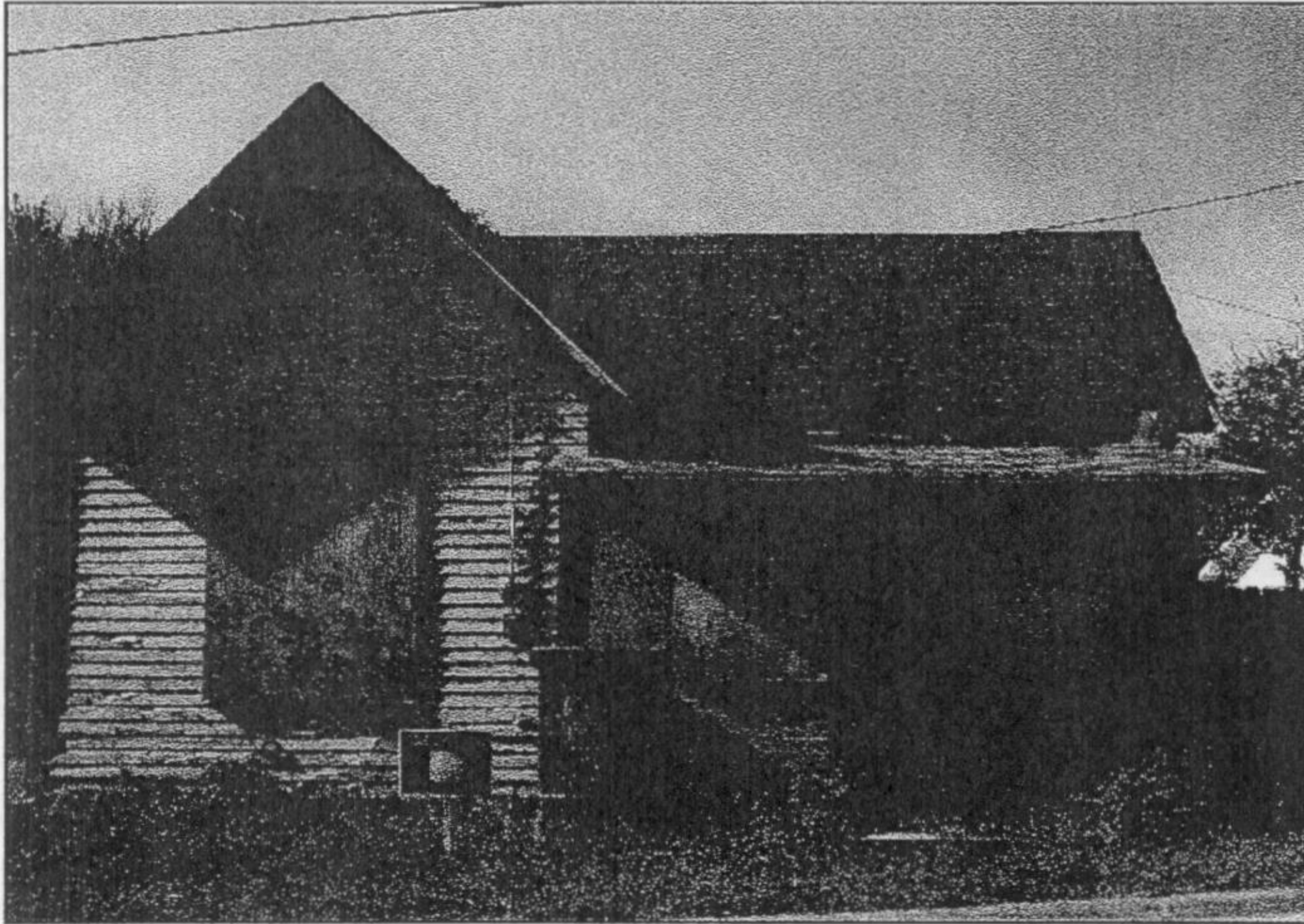
By: _____

DAN COODY, Mayor

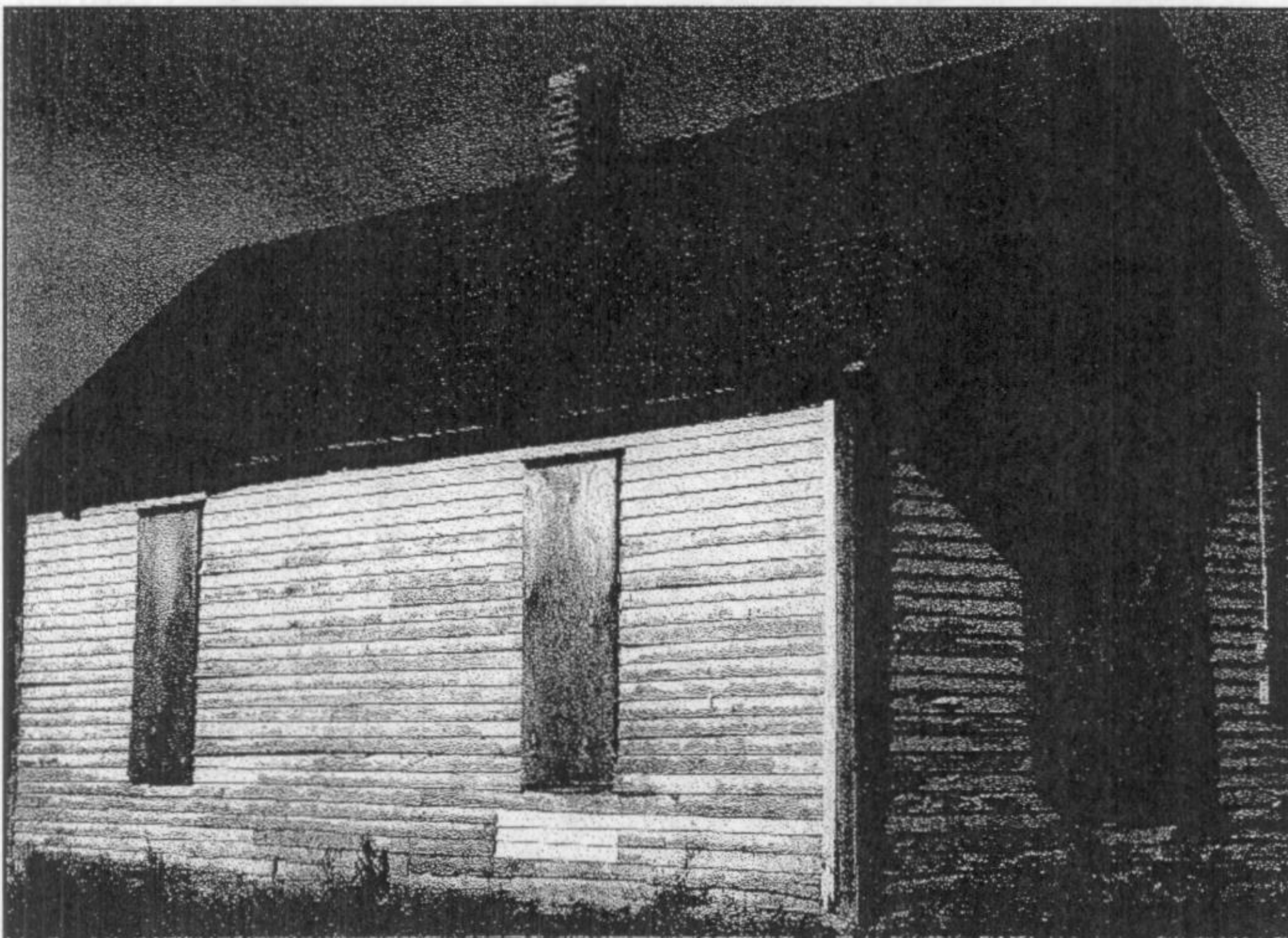
ATTEST:

By: _____

SONDRA SMITH, City Clerk



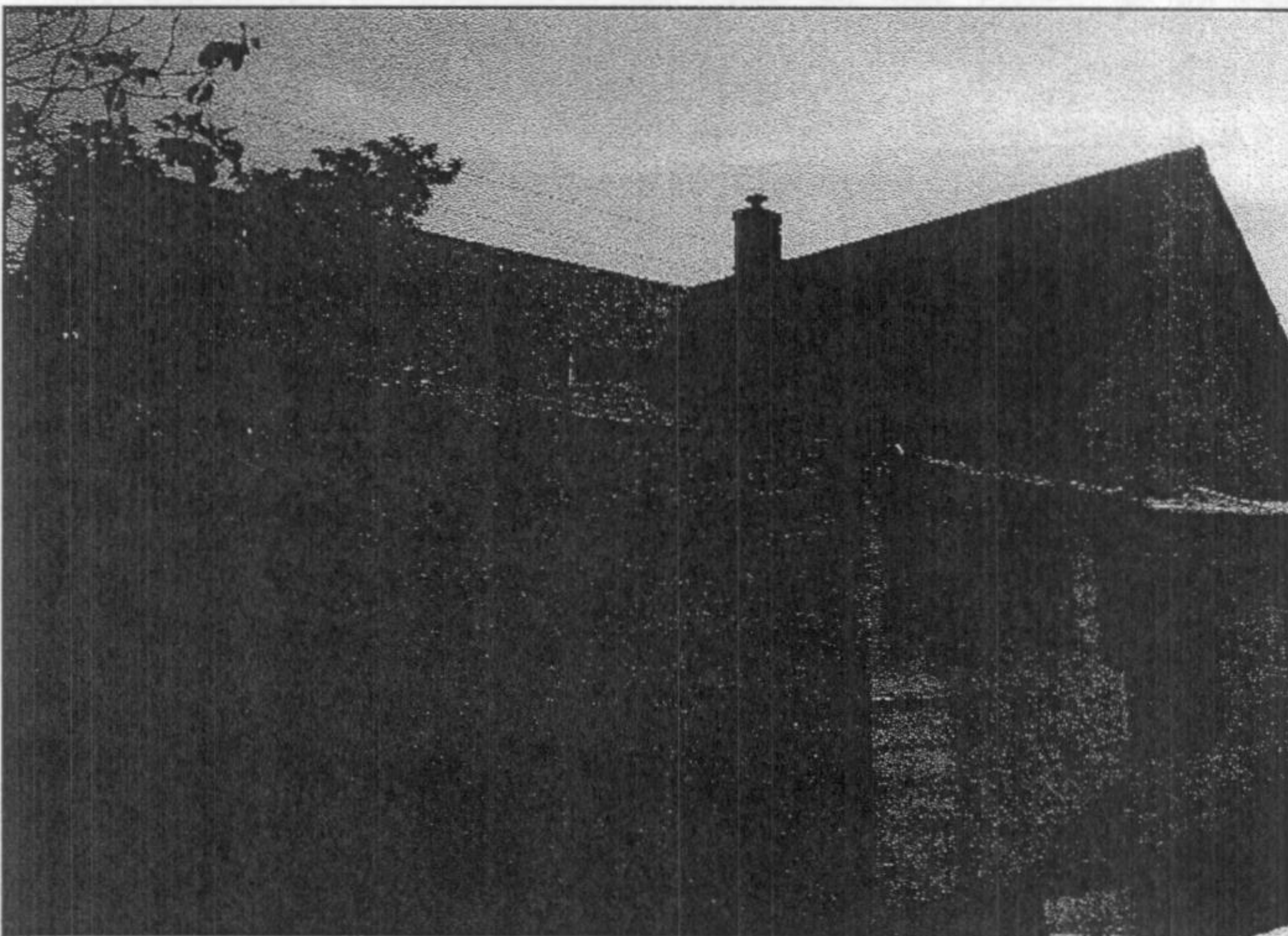
107 7th St



107 7th St



107 7th St



107 7th St

S/R 35316



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

May 24, 2006

James Ledbetter and Suzette L. Maestri
443 W North St.
Fayetteville, AR 72701

RE: Enforcement of Ordinance 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 107 E 7th St. (Parcel #765-05651-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on July 6, 2006 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Ball", written over a horizontal line.

Chad Ball
Code Compliance Administrator

Cc: file

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: James Reddletter Luzette Maestri 443 W. North St. Fayetteville, AR 72701	A. Signature X <i>Nelladustrom</i> ☒ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery 5/25/06 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
2. Article Number (Transfer from service label)	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes
7004 2510 0000 8363 0287	
PS Form 3811, February 2004 Domestic Return Receipt 4572 dw 102595-02-M-1540	

7004 2510 0000 8363 0287

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	5-24-06
Certified Fee		Postmark Here
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To *Reddletter*

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4 4572

PS Form 3800, June 2002 See Reverse for Instructions

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



C. 2
Raze and Removal at
107 East 7th Street
Office of Code Compliance Page 9 of 14
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

April 03, 2006

Owner JAMES L. LEDBETTER & SUZETTE L. MAESTRI
443 W. NORTH ST.

FAYETTEVILLE, AR 72701

RE: Property @ 700 COLLEGE AVE & 107 7TH ST.

WC Parcel # 765-05651-000

Case # 4572

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8240.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

LAURA WILSON
Code Compliance Officer

Cc: file

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>James J. Ledbetter</i> ☐ Agent ☒ Addressee	
1. Article Addressed to: JAMES LEDBETTER SUZETTE L. MAESTRI 443 W NORTH ST FAYETTEVILLE, AR 72701		B. Received by (Printed Name) C. Date of Delivery 4-5-6	
2. Article Number (Transfer from service label) 7005 1820 0001 9765 0443		D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below:	
PS Form 3811, February 2004		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes	
Domestic Return Receipt		4572 RW 102595-02-M-1540	

7005 1820 0001 9765 0443

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For delivery information visit our website at www.usps.com	
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Postage \$	4-3-06 Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <i>James J. Ledbetter</i> Street, Apt. No., or PO Box No. City, State, ZIP+4 4572	
PS Form 3800, June 2002 See Reverse for Instructions	

Parcel Number: 765-05651-000 Prev. Parcel Number: 139294-000-00 Type: RI
 Location: 700 S COLLEGE AVE
 Owner Name: LEDBETTER, JAMES L. & MAESTRI, SUZETTE L.
 Mailing Address: 443 W NORTH ST FAYETTEVILLE AR 72701
 Lot: Block: S-T-R: 22-16-30
 Addition: GLENWOOD PARK
 School District: FAYETTEVILLE SCH, FAY Tax District: 011
 City: FAYETTEVILLE
 Legal: LOTS 1-2 BLOCK 1
 Current Year A79 Credit Status: V
 Last Appraised: 2004

	Appraised Value	Taxable Value
Land	22,500	4,500
Improvement	29,250	5,850
Total	51,750	10,350

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2005	10,350	\$545.45	\$0.00	\$0.00	\$0.00		V	\$545.45	\$0.00	
2004	10,350	\$536.75	\$0.00	\$0.00	\$0.00		V	\$536.75	\$536.75	PAID
2003	6,760	\$358.01	\$0.00	\$0.00	\$0.00	\$300	F	\$63.81	\$63.81	PAID
2002	6,760	\$351.25	\$0.00	\$0.00	\$0.00	\$300	F	\$51.25	\$51.25	PAID
2001	6,760	\$351.25	\$0.00	\$0.00	\$0.00	\$300	F	\$51.25	\$51.25	PAID
2000	6,760	\$54.90	\$0.00	\$0.00	\$0.00		O	\$54.90	\$54.90	PAID
1999	6,760	\$346.11	\$0.00	\$0.00	\$0.00			\$346.11	\$346.11	PAID
1998	6,760	\$346.79	\$0.00	\$0.00	\$0.00			\$346.79	\$346.79	PAID
1997	6,760	\$346.79	\$0.00	\$0.00	\$0.00			\$346.79	\$346.79	PAID
1996	6,760	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID
1995	6,760	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2004	39726	5/11/2005	\$536.75	\$0.00	\$0.00	\$0.00	\$0.00	\$536.75
2003	128550	11/9/2004	\$58.01	\$0.00	\$0.00	\$0.00	\$5.80	\$63.81
2002	53495	6/24/2003	\$51.25	\$0.00	\$0.00	\$0.00	\$0.00	\$51.25
2001	8400	4/6/2002	\$51.25	\$0.00	\$0.00	\$0.00	\$0.00	\$51.25
2000	20542	10/8/2001	\$54.90	\$0.00	\$0.00	\$0.00	\$0.00	\$54.90
1999	14482	10/19/2000	\$346.11	\$0.00	\$0.00	\$0.00	\$0.00	\$346.11
1998	13983	9/20/1999	\$346.79	\$0.00	\$0.00	\$0.00	\$0.00	\$346.79

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
12/21/2005	2005	56563	LEDBETTER, JAMES L. & MAESTRI,	SUZETTE L.	SV	0	
WCS 2005-56563 SURVEY FOR JERRY ALLRED ADDL' PARCEL							
12/15/2005	2005	56561	LEDBETTER, JAMES L. & MAESTRI,	SUZETTE L.	WD	59,000	194.70
LMP WD 2005-56561 \$194.70 REV (59M)							
9/17/2003	2003	49580	MCFADDEN, SHAWN		AD	45,000	148.50

Real Estate Parcel Information

Page 2 of 3

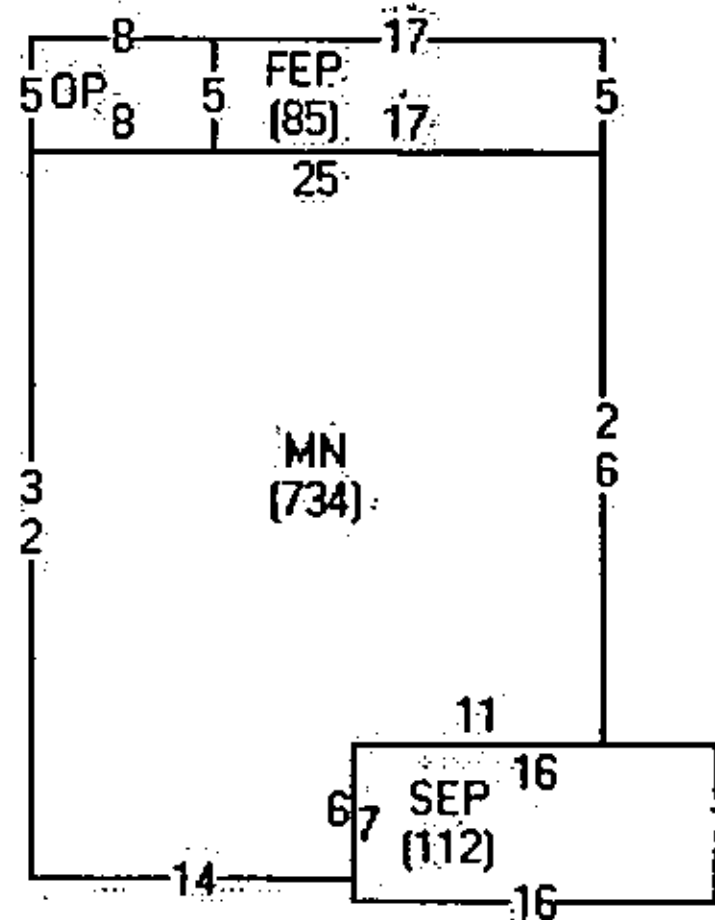
CSS 2003-49580 AD \$148.50 REV (45M) // ALSO INCLUDES: 765-05651-000; 765-107 East 7th Street
05652-000 Raze and Removal at
Page 12 of 14

8/28/2002 2002 131236 HANNA, CORA E. WD 0 0.00
LRR
8/16/2002 2002 117264 HANNA, BOBBY E. WD 0 0.00
KST 2002-117264 WD NO REV.
1/1/1985 360 360 HANNA, CORA E. 0 0.00
(SURVIVOR)
4-18-94- DWG REMODELED- CHG DEP FOR 1994 PER SH.

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	734	734		

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
5	F	FS			93

Sketch:



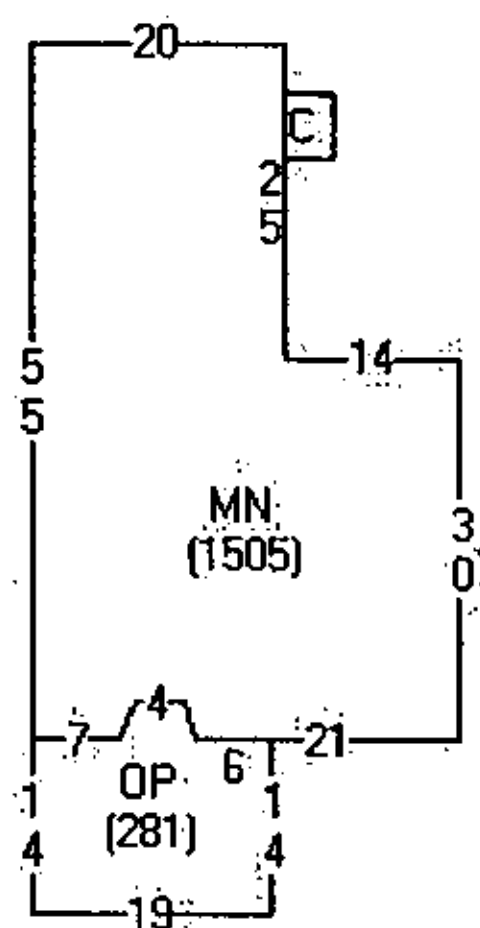
Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	Gravel Driveway		

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
2	SF	FS	1505	1505		

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
5	F	VINYL			93

Sketch:



[Next Item](#) | [Previous Item](#) | [Ledger Card](#) | [Prev. Ledger Card](#) | [Parcel Map](#) | [Return to Search Results](#) | [Modify Search](#) | [New Search](#)

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

D. 1
ADM 06-2152 Wellspring Ruppel
MSP Amendment
Page 1 of 30

6-Jul-06
City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 06-2152: (Wellspring Ruppel MSP Amendment): Submitted by Todd Jacobs for property located north of Wedington and east of Ruppel Road. The property is zoned R-PZD, Residential Planned Zoning District. The request is amend the current Master Street Plan to reflect the approved PZD for this property, realigning a portion of Ruppel Road to the west as indicated in the attached maps.

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] 6-16-06
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 6-16-06
City Attorney Date

Original Contract Number: n/a

[Signature] 6/19/06
Finance and Internal Service Director Date

Received in City Clerk's Office
6-16-06
ENTERED
92

[Signature] 6/19/06
Mayor Date

Received in Mayor's Office
6/19/06
ENTERED
PH

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Director of Current Planning

Date: June 15, 2006

Subject: Approval of a resolution to amend the Master Street Plan to realign Ruppel Road to the west (ADM 06-2152).

RECOMMENDATION

The Fayetteville Planning Commission and staff recommend approval of a resolution amending the Master Street Plan to realign Ruppel Road, a Principal Arterial, to the west along the Wellspring Preliminary Plat northwestern boundary, north to Mount Comfort Road.

BACKGROUND

The subject property is the site of the Wellspring Planned Zoning District (an approved, but undeveloped mixed use development and subdivision, R-PZD 05-1636 and PPL 06-2053) containing approximately 152 acres. The proposed realignment of Ruppel Road from its current alignment was favorably discussed by the City Council as part of the original Wellspring PZD approval, however the Master Street Plan was not formally amended at that time. Condition of approval No. 12 of the PZD approved by the City Council stated that *"...further analysis [of the Ruppel Road Master Street Plan Amendment] take place for this important alignment and if needed, plans to be modified and brought back before the City Council for a final determination of the Master Street Plan amendment at the time of development."*

The first phase of the Wellspring development (PPL 06-2053) was approved by the Planning Commission on June 12, 2006, creating 132 single-family lots, and creating another 27 lots for future mixed use development and subdivision. The current Master Street Plan indicates the alignment of Ruppel Road shifting east and bisecting a portion of the property. Recent concept designs by staff for the transportation improvements to this roadway have indicated a different scenario, also as proposed with PPL 06-2053. The City's Bond Program also showed this alignment as proposed to the Street Committee (see attached), which voted favorably on this alignment. This request is consistent with staff's concept designs, and maintains the integrity of the north-south arterial.

DISCUSSION

This item was heard at the Planning Commission meeting of June 12, 2006 as part of the Wellspring Preliminary Plat. The Planning Commission voted unanimously in favor of the requested realignment included as Condition No. 3 for the preliminary plat. It was also noted with the City Council approval of R-PZD 05-1636, in Condition No. 12.

BUDGET IMPACT

None.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE ADM 06-2152 AMENDING
THE MASTER STREET PLAN, REALIGNING RUPPLE ROAD,
A PRINCIPAL ARTERIAL, ALONG THE WELLSRING PZD
BOUNDARY NORTH TO MOUNT COMFORT ROAD AS
DESCRIBED AND DEPICTED IN THE ATTACHED MAPS**

**WHEREAS, the Wellspring Community Planned Development is improving Ruppel Road
along its frontage as approved in R-PZD 05-1636, in the alignment that was presented and approved
in concept by the Planning commission and City Council; and**

**WHEREAS, the City's Street Committee has reviewed the proposed alignment, which
follows concept drawings prepared by the City Engineering staff for potential bond program
improvements; and**

**WHEREAS, the City Council finds that a realignment of Ruppel Road to the west as
indicated in the attached maps maintains the integrity of the north-south Principal Arterial connection
while better utilizing existing rights-of-way.**

**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 amends the
Master Street Plan as indicated in Exhibit "A" attached hereto and made a part hereof.**

PASSED and APPROVED this 6th day of July, 2006.

APPROVED:

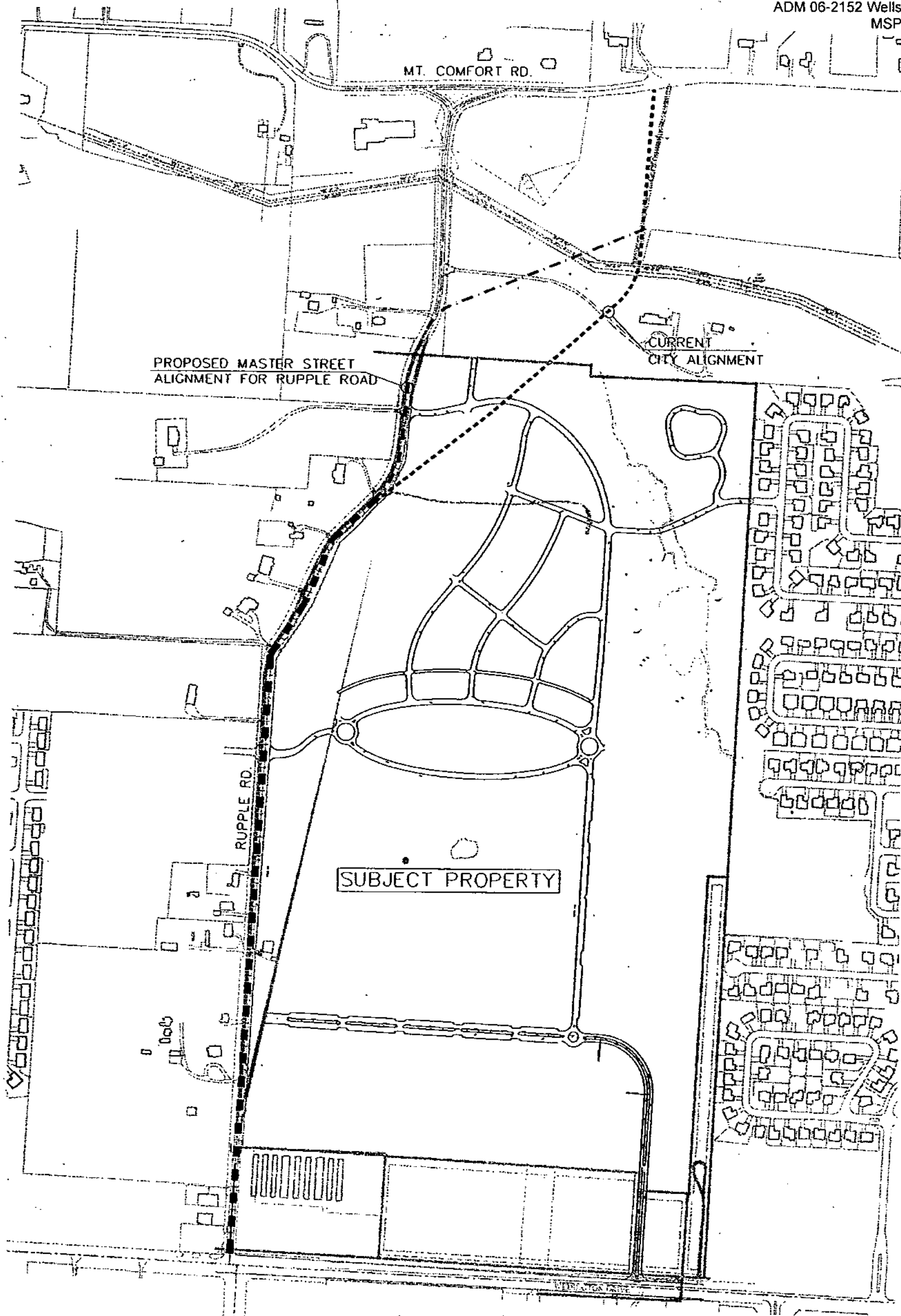
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"- WELLSRING

D. 1
ADM 06-2152 Wellspring Ruppel
MSP Amendment
Page 5 of 30





21 W. Mountain, Ste. 121 • Fayetteville, AR 72701 • Office: 479 527.0055 • Fax: 479 527.2798

April 12, 2006

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

RE: WellSpring Master Street Plan Amendment

Dear Mr. Pate:

Critical Path Design formally requests a Master Street Plan amendment to Ruppel Road at the north end of WellSpring Community property

Our designed alignment of this section, which is based on the Street Bond Program concept drawings and was recommended by staff in MDP R-PZD 05-1636 (WellSpring Community) differs from the existing Master Street Plan alignment for Ruppel Road.

In light of the recommendation by city staff and in light of the scenario envisioned by the Street Bond Program concept drawings, we ask that said amendment be made. Please find, attached, an 8.5 x 11 exhibit showing the existing Master Street Plan alignment along with the proposed alignment, based on the Street Bond Program concept drawings.

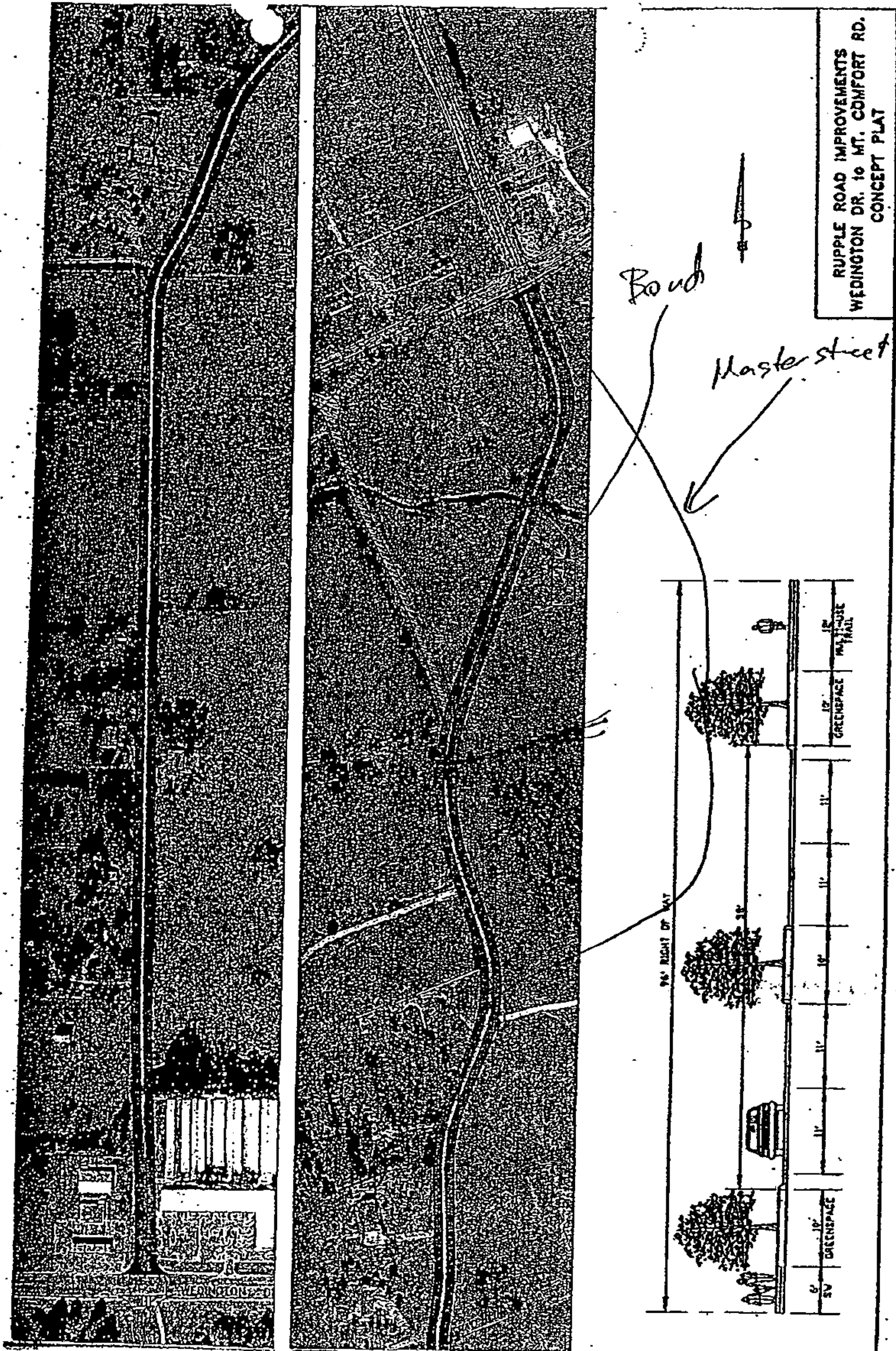
Please contact me with any questions or concerns.

Thank you

Todd Jacobs
Project Manager
Critical Path Design, Inc
466-8115 Cell Phone
527-2798 Fax Number

R-PZD 05-1636 Wellspring: Conditions of Approval

- traffic signal at Wedington Drive and Rurple Road, at the cost of the developer.
 - Re-evaluation of the "frontage drive" and entries onto Rurple Road to create acceptable traffic operations. The traffic study indicates the proposed interior frontage road and intersections with Rurple need to be evaluated in detail, a statement with which staff agrees. Sight distance, curb cut proximity, stacking distance, alignment with approved streets across Rurple Road and relationship to the pedestrian movement along Rurple Road will all be examined in detail at the time of development.
 - Limitation of all access to Rurple Road and Wedington Drive to streets only, and no individual curb cuts shall be permitted.
 - Coordination with city staff to determine the appropriate lane geometry that is consistent with the desired traffic movement along Rurple Road.
 - Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteria.
12. City Council consideration of a Master Street Plan amendment to move Rurple Road west of its planned location. *The current Master Street Plan indicates the alignment of Rurple Road shifting east and bisecting a portion of the subject property. Recent concept designs prepared by staff for the transportation improvement/street bond program have indicated a different scenario (see attached), which is utilized with the Wellspring proposal. Staff recommends that further analysis take place for this important alignment and if needed, plans to be modified and brought back before the City Council for a final determination of the Master Street Plan amendment at the time of development.*
13. A Tree Preservation Plan shall be prepared at the time of development for each Planning Area. All development proposals shall meet the Tree Preservation and Protection Ordinance.
14. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
15. Prior to City Council consideration, the applicant shall modify the project booklet and Master Development Plan to reflect any revisions or discrepancies therein, as identified by staff and the Planning Commission. The following have been identified to be revised in the current submittal:
- Add Use Unit #1 to PA-2
 - Add Use Unit #10 to PA-4
 - Correct the discrepancy of acreage in PA-5
 - Remove Use Unit #25 from the CUP in PA-6
 - Revise the dwelling unit number on Page 5 of the project booklet
 - Include the "Dwellings shall not turn a rear façade..." statement in PA-5
 - Revise the Intensity numbers in PA-6
 - Correct the UDC reference under 1. Screening/Landscaping in the booklet
 - Revise the Land Use Table to correctly reflect accurate numbers





THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 12, 2006

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 31, 2006 *Updated June 13, 2006*

PPL 06-2053: Preliminary Plat (WELLSPRING, 400): Submitted by CRITICAL PATH DESIGN for property located NORTHEAST OF RUPPLE ROAD AND WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 05-1636 and contains approximately 152.23 acres. The request is for a subdivision with 159 lots containing 132 single-family lots in this phase of development.

Property Owner: BARBER GROUP
Planner: ANDREW GARNER

Findings:

Background: This property was rezoned from RSF-1, Single-Family One Units Per Acre and R-A, Residential-Agricultural to Residential Planned Zoning District (R-PZD) 05-1636, Wellspring on March 7, 2006. The approved R-PZD zoning criteria allows for a mixed use residential development in seven Planning Areas, each with its own unique permitted and conditional uses, building setbacks, lot width and area, density, intensity of nonresidential space, maximum number of dwelling units, phasing density, intensity of nonresidential space, maximum number of dwelling units, and phasing for construction. The approved zoning allows for a total of 1,175 dwelling units for the site, a maximum of 548,000 square feet of nonresidential space. Approximately 40 acres (26% of the site) has been designated for city parks, community greenspace, trail systems and/or tree preservation and undisturbed areas. The development is centered on a pedestrian-friendly, traditional urban design approach utilizing a mixture of uses in the same area, while providing for a variety of home styles and types.

Property: The subject property contains 152.23 acres. The property is located on the north side of Wedington Drive and east of Rurple Road, with frontage on both of those streets. The property is undeveloped, with primarily agricultural pasture land. There are large groupings of high priority/significant trees located in areas on the site, but a majority of the property exists in pasture, with a few remaining single family homes. A creek enters the property from the east and travels north to Hamestring Creek. Bryce Davis Park is located directly adjacent to the east, as well as some single family subdivisions and multi-family development. To the north is undeveloped farmland. Surrounding land use and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Largely agricultural	RSF-1, RSF-4, R-A
South	Commercial strip center, mini-storage	C-2, R-A
East	Single family, multi-family homes	RSF-4, R-O, C-1
West	Developing subdivisions and single family homes	RSF-4, RSF-1

Proposal: The applicant requests preliminary plat approval to subdivide the property into 159 lots as the first phase of this Master Development Plan. This request would subdivide the approved Planning Area PA-1 (Garden Homes) into 132 single-family lots as allowed under the R-PZD zoning. Additionally, this preliminary plat would create lot lines for separate parcels in the other six Planning Areas with a variety of uses as allowed in the zoning criteria, and with a lot layout consistent with the approved Master Development Plan. The breakdown of lot numbers and uses is depicted in *Table 2*.

Table 2
Wellspring Preliminary Plat 06-2053

Lot Number(s)	Use
1-132	Single-family detached
133-136	Pedestrian walkways
137-139	Tree preservation
140	Trail
141-142	Tree preservation
143	Townhomes
144	Common area
145	Community center
146	Townhomes
147	Condominiums
148-155	Mixed use
156	Trail
157	Park
158	Tree preservation
159	Market district

Zoning Criteria Minor Modification: The applicant has obtained administrative approval from the Zoning and Development Administrator to amend the lot size and width for several lots within Planning Area 1 (PA-1 Garden Homes). This modification falls within the 20% change to the originally-approved minimum lot size by the Planning Zoning District ordinance. The applicant has decreased the lot area of 20 lots (lot numbers 2-4, 6-9, 10-13, 14-16, and 88-91) below the originally approved 6,000 square feet. The smallest lot area is now 5,150 square feet. The applicant has also decreased the lot width of 9 lots (lot numbers 2-4, 7-8, 11-12, 15-16) below the originally approved 50 feet. The narrowest lot width is now 47.84 feet. The Zoning and Development Administrator is responsible for reviewing revisions that fall within the minor modification criteria.

Water and Sewer: Water and sewer are available to the site and will be extended into the development. The site is located in the Owl Creek/Hamestring Creek basin that has wastewater

capacity concerns. A guarantee (letter of credit, bond, or cash) in an amount to be determined by City engineering staff based on the square footage of the nonresidential use and number of residential dwelling units is required to be paid to the City prior to issuance of a building permit or recordation of a final plat.

Adjacent Master Street Plan Streets: Ruppel Road (Principal Arterial), Wedington Drive (Principal Arterial).

Access: Access to the site is provided from Ruppel Road and Wedington Drive (State Highway 16). There is also a stub-out to the property from a subdivision to the northeast that will be connected with this preliminary plat. Access points are to be by way of public streets into the development, which will become primary entrances into the Wellspring Community in two locations, one on Wedington Drive and one on Ruppel Road. There are also two other proposed entrances onto Ruppel Road in the 0.7 miles of frontage, with the potential for traffic signalization at two entrances on Ruppel Road, and at the project's entrance onto Wedington Drive, subject to city approval. The developer will be responsible for significant improvements to Ruppel Road and signalization as permitted to be at the cost of the developer, based on the traffic generated by this development.

The applicant requests a Master Street Plan Amendment to Ruppel Road from its current alignment at the north end of the site. The current Master Street Plan indicates the alignment of Ruppel Road shifting east and bisecting a portion of the property. Recent concept designs by staff for the transportation improvements to this roadway have indicated a different scenario, as proposed with this preliminary plat. Planning Commission and City Council approval of the requested Master Street Plan Amendment are included as a condition of approval for this project.

Interior to the project, public and private streets are proposed. The applicant is requesting several street design waivers many of which were discussed and expected when original PZD was approved. Planning Commission approval of these waivers is included as a condition of approval. Please reference the attached correspondence and waiver justifications from the applicant within the staff report.

Pedestrian circulation has also been addressed, with both sidewalks along streets and trails that connect the various planning areas. A trail is proposed to be constructed from Bryce Davis Park north along the existing creek to eventually connect to Hamstring Creek Trail. Both of these corridors are identified in the Fayetteville Alternative Trails and Transportation Plan as planned trails. A trail corridor encompassing 1.62 acres will be dedicated with this development, allowing this trail connection to be realized.

Right-of-way to be dedicated: 55' from centerline right-of-way along the project's Ruppel Road and Wedington Drive frontages. Dedication by warranty deed is required along Wedington Drive as it is a State Highway (Hwy. 16), dedication of right-of-way for interior streets.

Connectivity: A conceptual proposed street layout was approved by the Planning Commission and City Council with the re-zoning of this property. Three points of access are provided to the west on Ruppel Road. The existing street stub-out in the subdivision to the east will be connected to this development and pedestrian and park connection will be provided to the east. The property would access Wedington Drive in the southeast corner of the property. *Staff recommends in favor of the proposed street connectivity.*

Tree Preservation:

Existing:	28%
Preserved:	23%
Required:	25%; Mitigation is required in the amount of 37 two-inch caliper trees.

Parks:

- Park Recreation Advisory Board voted to accept a land dedication to meet the requirements of the Planned Zoning District on May 2nd 2006. The developer has provided park land in the amount of 20.67 acres.
- The parkland dedication requirement for this phase of development is 3.096 acres.
- Park Staff is working with the developer to address drainage issues onto the park land from the development. Details of the drainage structures must be reviewed and approved by Park Staff prior to signing final plat.
- A deed for the park land is due before signing final plat for Wellspring.
- A trail corridor encompasses 2.074 acres of the 20.67 acre dedication. This trail corridor is meeting the requirement of another development in the NW quadrant, "The Arbors at Springwoods" and will be viewed as a separate dedication.

Subdivision Committee Discussion: The Subdivision Committee expressed concern regarding some of the street design waiver requests, and fire department input was requested. The fire department reviewed the waiver requests and does not have concern with the waiver request for a 15' curb radii given that they will be driving emergency response vehicles slowly through the residential areas where the waivers are requested. The fire department did comment that they need a wider area to be able to swing a large truck around the curves, and request that the no parking zones adjacent to the intersections be increased from 30 feet to 40 feet. The fire department also commented that all round-a-bouts need to have 20 feet clear of paved driving surface around the entire path. This could be accomplished by striping the street at 16 feet with a 4-foot bicycle lane.

Recommendation: Staff recommends approval of PPL 06-2053 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street connectivity. A conceptual proposed street layout was approved by the Planning Commission and City Council with the re-zoning of this property. Three points of access are provided to the west on Ruppel Road. The existing street stub-out in the subdivision to the east will be connected to this development and pedestrian and park connection will be provided to the east. The property would access Wedington Drive in the southeast corner of the property. *Staff recommends in favor of the proposed street connectivity. Further connectivity will occur with development of the larger tracts.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

SUBDIVISION COMMITTEE DETERMINED IN FAVOR OF THIS CONDITION (06-01-06).

2. Planning Commission determination of street improvements.
 - a. *Staff recommends a partial assessment in the amount of \$13,902.91 be paid to the City for the phased cost of three new traffic signals proportional to the traffic generated from Phase 1 of this development. These signals would be located at the project's two southern entrances onto Ruppel Road and the project's entrance onto Wedington Drive.*
 - b. *Staff recommends constructing the eastern half of the Ruppel Road boulevard street section along the project's frontage and connecting with Wedington Drive. This requires two travel lanes and half of a boulevard (28 feet in width), six foot sidewalks, street lights, and associated drainage. Street improvements will continue south to intersect with Wedington Drive, providing turn lanes at the intersection.*
 - c. *An assessment shall be paid in the amount of \$117,509.45 to continue a 28' street section from the northernmost entrance onto Ruppel Road north to the northern property line. Actual construction will consist of the street tapering to tie in with the existing Ruppel Road to the north.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

SUBDIVISION COMMITTEE DETERMINED IN FAVOR OF THIS CONDITION (06-01-06).

3. Planning Commission determination of a recommendation to the City Council for a Master Street Plan Amendment to Ruppel Road. The applicant requests a Master Street Plan Amendment to Ruppel Road at the north end of the site from its current alignment. The current Master Street Plan indicates the alignment of Ruppel Road shifting east and bisecting a portion of the property. Recent concept designs by staff for the transportation improvements to Ruppel Road have indicated a different scenario, as proposed with this preliminary plat. *Staff therefore recommends in favor of the requested Master Street Plan alignment finding that it is consistent with the City's overall plan for traffic and circulation on this principal arterial.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

SUBDIVISION COMMITTEE DETERMINED IN FAVOR OF THIS CONDITION (06-01-06).

4. Planning Commission determination of waivers for street design.
- a. Street width waivers. Street cross sections differing from those in the Master Street Plan were discussed and approved by the Planning Commission and City Council as part of the approval of R-PZD 05-1636. These street cross sections are depicted in a letter and attachments dated April 12, 2006 provided by the applicant. *Staff recommends in favor of a waiver to construct the street cross sections as requested. Staff will review detailed construction plans at the time of development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

- b. Construct a horizontal curve with a radius less than 150'. This occurs at the one-way looped turn around in northeast corner of the site in place of a cul-de-sac. *Staff finds in favor of this waiver request.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

- c. Build street cross section with no curb or sidewalk. *Staff does not find justification for the absence of curb, gutter, and sidewalk for lots 110-120 as requested.*

PLANNING COMMISSION DETERMINED THAT THIS STREET SECTION SHALL BE CONSTRUCTED WITH A SIDEWALK, WITHOUT CURB AND GUTTER. THE ABSENCE OF CURB AND GUTTER IS SUBJECT TO THE CITY ENGINEERING DIVISION'S APPROVAL OF ADEQUATE DRAINAGE OF THIS STREET SECTION (06-12-06).

- d. Exceed 4% grade within 100' of an intersection. This occurs in one instance for the intersection directly northwest of the pond in the northeastern portion of the site on the street east of lots 92 and 93. *Staff finds in favor of this waiver request.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

- e. Construct curb radii of 15' on residential street intersections. *Staff does not recommend in favor of the curb radii of 15'. Finding that 15' curb radii on the more narrow streets proposed do not allow for adequate vehicular turning movements. Should the Planning Commission find in favor of this request, the fire department recommends the following:*

- *All on-street parking shall be located a minimum of 40 feet from an intersection.*

PLANNING COMMISSION DETERMINED IN FAVOR OF A WAIVER TO ALLOW A 20' CURB RADIUS ON THE STREET INTERSECTIONS REQUESTED FOR A 15' RADIUS, WITH THE CONDITION AS REQUESTED BY THE FIRE DEPARTMENT (06-12-06).

- f. Allow on street parking on one side of proposed 22' street cross section. *Staff recommends in favor of this request.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (06-12-06).

SUBDIVISION COMMITTEE DID NOT PROVIDE A RECOMMENDATION FOR THESE STREET DESIGN WAIVER REQUESTS (06-01-06).

5. The zoning criteria on the final plat shall reflect the approved minor modification for lot size in Planning Area 1 (PA-1 Garden Homes) for those lots approved. Lots approved for reduced lot area include lots 2-4, 6-9, 10-13, 14-16, and 88-91, and for reduced lot width

include lots 2-4, 7-8, 11-12, and 15-16. All other lots shall meet the minimum zoning criteria established with R-PZD 05-1636.

6. In order to address City Fire Department concerns, the following issues shall be addressed:
 - a. The round-a-bouts shall be modified to provide a minimum of 20 feet clear of paved driving surface for emergency vehicles.
 - b. The applicant shall coordinate the design of the boulevard at the entry off of Wedington Drive to the satisfaction of the fire department, potentially shifting the median back from the intersection to allow better access when turning large emergency vehicles into the development.
7. All access to Ruppel Road and Wedington Drive shall be limited to public streets only, no individual curb cuts. This note shall be included on the final plat.
8. Lots that are not accessed off of alleys shall be accessed off of shared curb cuts to reduce the proliferation of curb cuts for the requested narrow lots. This note shall be included on the final plat.
9. The applicant shall submit a guarantee (letter of credit, bond, or cash) in an amount to be determined by City Engineering staff based on the nonresidential square footage of the building, or number of residential dwelling units (\$1,000 per single-family dwelling) prior to the building permit for contributions to an interim solution to wastewater capacity concerns in the Owl Creek/Hamestring Creek basin, if the improvement is required.
10. All existing structures and driveways not incorporated into the subdivision shall be removed and the areas revegetated where necessary prior to recordation of the final plat.
11. Right-of-way dedication in the amount of 55' from centerline right-of-way along the project's Ruppel Road and Wedington Drive frontages. Dedication by warranty deed is required along Wedington Drive as it is a State Highway (Hwy. 16). Dimension 55' from centerline right-of-way along Wedington Drive and Ruppel Road. Right-of-way dedication for internal public streets in the amounts dimensioned on the preliminary plat.
12. This preliminary plat is subject to the Master Development Plan, Statement of Commitments and Architectural Standards, zoning criteria, and other conditions of approval of R-PZD 05-1636.
13. Addresses are required to be depicted on the final plat.
14. Residences and other structures in this subdivision shall be constructed in accordance with the architectural standards and concepts approved as part of R-PZD 05-1636 and will be reviewed prior to issuance of a building permit. This note shall be included on the final plat.

15. All commercial development is subject to review at the time of development in compliance with commercial design standards, and the zoning criteria and architectural design standards and concepts of R-PZD 05-1636.
16. The applicant shall complete the following parkland dedication requirements:
 - Park Staff is working with the developer to address drainage issues onto the park land from the development. Details of the drainage structures must be reviewed and approved by Park Staff prior to signing final plat.
 - A deed for the 20.67 acre park land is due before signing final plat. A trail corridor of 2.074 acres is included in that dedication. This trail corridor is meeting the requirement of another development in the northwest quadrant, "The Arbors at Springwoods" and will be viewed as a separate dedication.
17. Street lights shall be installed or guaranteed with a maximum separation of 300 feet along public streets prior to final plat.
18. Subdivision area signage shall be permitted in accordance with applicable city codes.
19. See additional comments, revision and notes from staff reports within this packet, all of which shall be addressed as appropriate prior to final plat.

Tree Preservation Conditions:

20. Staff recommends planting the required 37 (2) inch caliper mitigation trees within the Tree Preservation Areas that will be established with Phase I. Several of the areas have spaces that could use additional canopy plus the trees would be located within a protected area.
21. As each additional lot develops, a full Tree Preservation Plan will be required. Each individual lot will have to preserve and mitigate for the trees found within their properties.
22. Mitigation is required with this development. The applicant has requested and been approved to utilize the Residential On-Site Mitigation Option. At time of Final Plat a Mitigation Planting Plan will have to be submitted to the Urban Forester for review and approval.
23. Please locate all Mitigation Trees outside of utility easements and within areas that will not be affected by future developments. Staff would recommend removing the trees on the south side of Rondure Road South so they are not disturbed by the future development of Lot 146 and possible relocating them along the right of way adjacent to the Parkland.

Standard Conditions of Approval:

24. 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)
25. 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.
26. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
27. All street names shall be approved by the 911 coordinator.
28. Preliminary Plat approval shall be valid for one calendar year.
29. All new exterior lighting shall be subject to the City's Lighting Ordinance and will be reviewed for compliance at the time of building permit.

Additional conditions:

30. _____
31. _____
32. _____

Planning Commission Action:

X Approved

Denied

Motion: Clark

Second: Lack

Vote: 6-0-0

Meeting Date: June 12, 2006

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

ORDINANCE NO. 4841

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 05-1636, WELLSRING, LOCATED AT RUPPLE ROAD AND WEDINGTON DRIVE, CONTAINING APPROXIMATELY 152.2 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 RSF-1, Residential Single Family, 1 unit per acre and R-A, Residential Agricultural, to R-PZD 05-1636 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 conditions of approval as submitted, determined appropriate and approved by the City Council.

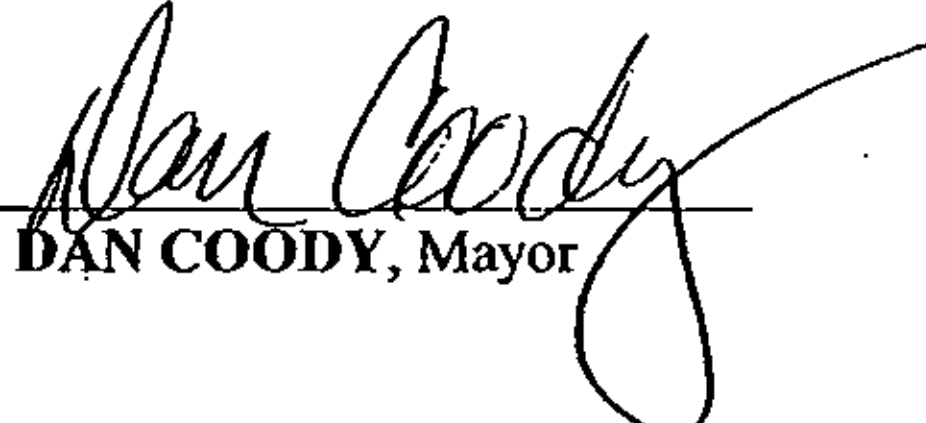
Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED 7th day of March, 2006.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk





PC Meeting of February 13, 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: February 06, 2006

MDP R-PZD 05-1636: Residential Planned Zoning District (Wellspring Community):
Submitted by CRITICAL PATH DESIGN for property located at RUPPLE ROAD AND WEDINGTON DRIVE. The property is zoned RSF-1, SINGLE FAMILY - 1 UNITS/ACRE and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 152.2 acres. The request is to approve a Master Development Plan – Residential Planned Zoning District for a new mixed-use community containing residential, office, commercial and open space.

Property Owner: SBC Investments, LLC

Planner: Jeremy Pate

Findings:

Property Description: The property consists of several parcels totaling 152.2 acres that is currently undeveloped, with primarily agricultural pasture land. The property fronts approximately 0.7 miles of Ruppel Road between Wedington and Mt. Comfort and a small portion along Wedington. There are large groupings of high priority/significant trees located in areas on the site, but a majority of the property exists in pasture, with a few remaining single family homes located upon it. It is currently zoned RSF-1 and R-A; much of the property was part of the island annexation that occurred in 2004, allowing for development within the city limits. There is a fault line that runs east-west through the center of the property, and a creek that enters from the east and travels north to Hamstring. Bryce Davis Park is located directly adjacent to the east, as well as some single family subdivisions and multi-family development. To the north is undeveloped farmland. The Master Street Plan calls for Ruppel Road to vary from its current location just off of the northwest corner of the site in a new alignment, in order to align with Ruppel Road north of Mt. Comfort.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Largely agricultural	RSF-1, RSF-4, R-A
South	Commercial strip center, ministorage	C-2, R-A
East	Single family, multi-family homes	RSF-4, R-O, C-1
West	Developing subdivisions and s.f. homes	RSF-4, RSF-1

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The proposal includes a maximum of 1,175 dwelling units and 548,000 square feet of non-residential space over the 152-acre site. This results in a total density of 7.72 dwelling units per acre and an intensity of 3,605 SF of nonresidential space per acre over the entire project. A total of seven (7) separate planning areas are proposed, each of which has identified uses: Garden homes, Parkway townhomes, Clubhouse, Condominiums, Mixed Use Development, Market District, and Parks area, community green space and tree preservation area.

The mixture of uses on the project varies significantly from that of solely single family detached to that of solely commercial. However, there are transitions between these that allow for a range of less dense townhomes, more dense condominiums, commercial/office/retail and residential mixed use, etc. Each Planning Area has its own specific density (maximum number of dwellings units allowed) and intensity (maximum square feet of non-residential space), depending upon the desired effect. The clustering of uses in a more compact manner decreases infrastructure cost and allows for a higher percentage of preserved greenspace. To meet applicable zoning criteria, each Planning Area also has to have established bulk and area criteria, setbacks, height, etc. Otherwise each proposal would have to return to the City Council to address these zoning issues with every development. The information is provided both in a booklet form, which describes the intent of each Planning Area along with a conceptual drawing, and by way of the larger plat, which gives much of the same technical information, along with the actual Master Development Plan. The building, street, and parking arrangement indicated on the master plan will likely vary somewhat from that which is presented. In fact, there are several technical issues on connectivity, Master Street Plan requirements for Ruppel Road, specific off-site improvements, etc. currently evident that will need to be addressed. However, these issues can be resolved with the development review of the project and additional City Council action, if needed. At this step in the process it is important to make the policy decision of whether the zoning is appropriate and compatible to this area, given the proposed Master Development Plan, statement of commitments, and development standards.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept of varied density, variety of uses and walk-ability while preserving community area, providing parkland and open space, and other infrastructure improvements to support the community. Approval of the Master Development Plan Planned Zoning District would effectively rezone the property based on the conceptual plans and information provided in the booklets. However, it does not give development approval. The applicant is required to return through the preliminary plat and large scale development process (several times, in this case), in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

Bulk and area criteria, while usually provided within the staff report, have been provided in duplicate by the applicant. The project booklet provided gives the zoning criteria in detail, as do the Master Development Plans. Please reference this provided material for more information. The booklet and plats presented are binding once approved, by ordinance.

Water & Sewer: Water and sewer lines are currently available in the area, and will be designed and constructed in accordance with city specifications to serve the development. Sewer capacity in this area remains an unresolved issue, though staff has been working on an interim solution until the Wastewater Treatment Plant is on-line, which will be 33-36 months from the initial construction date. The developer will be required to contribute to the interim solution or simply wait until the treatment plant is online.

Access: Access to the site is provided from Ruppel Road and Wedington (Hwy 16). There is also a stub-out to the property from a subdivision to the northeast that will require connection. Access points are to be by way of public streets into the development, which will become a primary entrance into the Wellspring Community in at least two locations. There are four proposed entrances onto Ruppel Road in the 0.7 miles of frontage, with the potential for traffic signalization at two entrances, subject to city approval. The traffic study indicates the proposed interior frontage road and intersections with Ruppel need to be re-evaluated at the time of development, a statement with which staff agrees. Sight distance, curb cut proximity, stacking distance, alignment with streets approved and under construction across Ruppel Road and Wedington Drive and relationship to the pedestrian movement along Ruppel Road will all be examined in detail at the time of development. The developer will be responsible for significant improvements to Ruppel Road and signalization as permitted to be at the cost of the developer, based on the traffic generated by this development.

Interior to the project, public and private streets are proposed. The applicant states in the submittal that all streets, whether public or private, will be constructed in accordance with the Unified Development Code. No public or private streets are allowed to be gated, by city ordinance.

Pedestrian circulation has also been addressed, with both sidewalks along streets and trails that connect the various planning areas. A trail is proposed to be constructed from Bryce Davis Park north along the existing creek to eventually connect to Hamstring Creek Trail. Both of these corridors are identified in the Fayetteville Alternative Trails and Transportation Plan as planned trails. The applicant expects a recommendation for a trail corridor to be dedicated or easement provided in which this trail connection can be realized, and has identified 2 acres of land dedication in which this can occur.

Adjacent Master Street Plan Streets: Ruppel Road (Principal Arterial), Wedington Drive (Principal Arterial)

Street Improvements: The applicant commissioned a traffic study for this project, the executive summary of which is included in the staff report. An updated study is also being performed, based on some site plan changes from the original study. These updates will be available for use at the time of development. Specific improvements will be recommended, based on the traffic study of impact on existing infrastructure, along Ruppel Road and Wedington Drive. As this project does not have frontage all the way to Wedington, but will undoubtedly impact that short section, there are off-site improvements likely in this area. All proposals will be further evaluated by staff at the time of development to ensure that the amount of improvement is proportionate to

the impact of the traffic generated by the proposal, which is significant in this case. Based on the findings provided by the traffic engineer, staff will be making the following recommendations, at minimum, at the time of development:

- ◆ The developer will be responsible for paying for and construction of Ruppel Road at least half of its planned width, which currently includes two travel lanes and half of a boulevard. Six foot sidewalks, street lights and associated drainage is also required. Street improvements will continue south to intersect with Wedington Drive, providing turn lanes and other improvements as required by the Planning Commission and coordinated with city staff. Other off-site improvements to Ruppel Road will be evaluated at the time of development.
- ◆ Signalization to include installation of new traffic signals in accordance with City of Fayetteville requirements as determined necessary by the Planning Commission and reconstruction as necessary of the existing traffic signal at Wedington Drive and Ruppel Road, at the cost of the developer.
- ◆ Re-evaluation of the "frontage drive" and entries onto Ruppel Road to create acceptable traffic operations.
- ◆ Limitation of all access to Ruppel Road and Wedington Drive to streets only, and no individual curb cuts.
- ◆ Coordination with city staff to determine the appropriate lane geometry that is consistent with the desired traffic movement along Ruppel Road.
- ◆ Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteria.

Tree Preservation: A majority of the site contains open pasture land, though there are several large groupings of high priority trees, including post oak, black oak, mockernut hickory, pignut hickory, black gum, eastern redbud, persimmon, sycamore, American elm, white ash, sweetgum and black cherry. Many of these groupings and significant trees are located within the proposed parkland and community greenspace areas, while others are located interspersed along the north portion of the property along the creek where single family homes are proposed. There are also groupings along the front commercial area. The applicant proposes to meet the expected minimum percent canopy requirements, which is 25% in property zoned PZD, as well as preserve canopy within the parkland and community greenspace areas. The intent is to allow flexibility in order to adjust the layout of individual buildings within the unique Planning Areas in an attempt to meet the minimum percent canopy requirements. Where this can not be achieved, the large area of tree preservation south of the dedicated parkland could potentially be used as credit toward any deficiencies. This is subject to review and approval by the Urban Forester, and must meet the criteria of §167 Tree Preservation and Protection ordinance. More detailed comments from the Urban Forester are included in the attached staff report.

Parks: Staff has met with the applicant regarding the possible extension of Bryce Davis Park, which is adjacent to the east, in order to provide public parkland for the proposed development and others in the surrounding community. The Parks and Recreation Board has also evaluated the proposal and voted to recommend a land dedication of 19 acres to meet parkland dedication requirements. Additionally, the creek that traverses the site draining to Hamestring Creek to the north is on the Fayetteville Alternative Trails and Transportation Master Plan. An easement or dedication of land will likely be expected in order to make this connection, at the time of

development. A 2-acre corridor has been indicated on the plans as potential land dedication for this purpose. The applicant has indicated approximately 26% of the overall project is to be retained in open greenspace, some of which is undisturbed areas, some parkland, some open community greenspace. A trail connection to Bryce Davis Park is anticipated, and will be linked with other pedestrian paths and sidewalks throughout the development. A planned 19-acre dedication has been indicated in the submittal. The applicant shall meet the parkland dedication ordinance, based on the number of units proposed, at the time of development.

Public Comment: Staff advised the applicant to present this project to Ward 4, in which the site is located. Most comments from that meeting received were positive. However, there are comments that are included in the staff report that question the proposal's handling of traffic, change in character of land from rural to developed, multi-family units, etc.

Phasing: The development of the Wellspring Community is anticipated to occur over the next 4-12 years. A phasing schedule has been provided within the project booklet, identifying the anticipated construction of Planning Areas, as well as a highlighted plan that indicates major street construction with Phase I.

Background: Staff has worked with the applicant for several months to result in a project that meets the goals and intent of the Planned Zoning District ordinance. It was critical for this project, much like other large-scale master planning projects, for the Master Plan process to be in place. Following City Council adoption of the Planned Zoning District ordinance amendments, the applicants submitted this project to the City Council to be heard in September of 2005. Complications with acquiring necessary access to Hwy 16 required the item to be tabled indefinitely, and during that time the ordinance changed to have all Master Development Plans go before the Planning Commission for a first recommendation. The applicants have resubmitted their plans, with some changes, and notified all current property owners within 100 feet of the PZD boundary by certified mail.

Recommendation: Staff recommends forwarding a recommendation of approval of the Master Development Plan – Planned Zoning District for Wellspring Community (R-PZD 05-1636) to the City Council, with the following conditions:

Conditions of Approval:

1. 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, including the statement of commitments and development standards presented in the project booklet, shall also be binding and enforceable by law.
2. Approval of this Master Development Plan – Planned Zoning District shall not be construed as development approval. Pursuant to city ordinance, all development of the

property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. Each Planning Area shall be evaluated based on the zoning and development criteria established with the Master Development Plan. Circulation, landscaping, tree preservation, design standards, connectivity, infrastructure improvements and other city policies and ordinances remain applicable with the development review process. The conceptual designs proposed are to be used as a template from which detailed plans are produced; however, it is expected that certain items will change, in accordance with the Planned Zoning District ordinance.

3. Zoning and development criteria shall be enforced as approved by the City Council, and currently referenced in the Wellspring Community project booklet and on the submitted Master Development Plan plats. Flexibility will be allowed in the development criteria (street cross-sections, etc.) listed in the booklet, but Planning Commission approval of development is required. The approved plans, commitments and standards will be kept on file in the Planning Division, and referenced for subsequent development proposed on the property.
4. Should the applicant request alternative street cross-sections to the current standard street sections adopted by the City of Fayetteville at the time of development of each Phase, the applicant shall propose a waiver request. The requested street cross-sections shall be reviewed by staff and Planning Commission at that time for approval. The flexibility to propose varies street sections is allowed by the PZD process.
5. **Signage:** All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. More stringent regulations may be placed on developments within Wellspring to ensure a cohesive sign program; however, the sign ordinance may not be violated in doing so. No pole or pylon signs shall be permitted within the Wellspring Community.
6. **Phasing:** The anticipated build-out is 4-12 years for all three phases. In order to ensure the proposed Master Development Plan meets all of the goals and criteria set forth, a phasing schedule has been submitted (reference the project booklet).. If certain permitting times are not met, the Planned Zoning District approval shall be voided, or extended as allowed by §166 of the UDC. The following development phasing shall be enforced:
 - Each Phase submitted for preliminary plat or large scale development review shall meet current development criteria at the time of submittal. The applicant shall be granted two (2) years from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.
 - At the Planning Commission's discretion, if after five (5) years of the City Council adoption of the Master Development Plan, the approved zoning criteria are not in accordance with the goals, policies and guidelines of the City of Fayetteville, the Planning Commission shall determine if the Master Development Plan shall be submitted to the City Council for reconsideration.

7. Public water and sewer lines shall be extended as required by city ordinance at the time of development. Detailed analysis of the existing water and sewer systems will be required to be submitted with the development submittal. As mentioned in the staff report, the developer shall contribute to the interim wastewater capacity solution in this basin as determined by the City Council in order to develop prior to the Wastewater Treatment Plant completion.
8. 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. All structures 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.
9. Overhead awnings, balconies, stairways, stoops and other appurtenances to the primary structure may be extended within the required front building setback and/or right-of-way for interior streets for this development in the identified Planning Areas allowing this to occur (PA-4, PA-5), with Planning Commission approval. Said allowances shall be at the discretion of the Planning Commission to ensure safety measures, clearance and other criteria for zoning and development in the Unified Development Code are not compromised.
10. Public water and sewer lines shall be extended as required by city ordinance at the time of development. Detailed analysis of the existing water and sewer systems will be required to be submitted with the development submittal. As mentioned in the staff report, the developer shall contribute to the interim wastewater capacity solution in this basin in order to develop prior to the Wastewater Treatment Plant completion.
11. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed at the time of submittal. Based on the traffic study provided that evaluates the proposed development and surrounding street infrastructure, the developer shall be responsible, at minimum, for the following:
 - The developer will be responsible for paying for and constructing Ruppel Road at least half of its planned width, which currently includes two travel lanes and half of a boulevard. Six foot sidewalks, street lights and associated storm drainage is also required. Street improvements will likely continue south to intersect with Wedington Drive, providing turn lanes and other improvements as required by the Planning Commission and coordinated with city staff. Other off-site improvements to Ruppel Road will be evaluated at the time of development to ensure the traffic generated does not compound or create a dangerous traffic condition.
 - Signalization to include installation of new traffic signals in accordance with City of Fayetteville requirements as determined necessary by the Planning Commission and reconstruction as necessary of the existing

traffic signal at Wedington Drive and Ruppel Road, at the cost of the developer. Other signalization may be required, with city approval.

- Re-evaluation of the "frontage drive" and entries onto Ruppel Road to create acceptable traffic operations. The traffic study indicates the proposed interior frontage road and intersections with Ruppel need to be evaluated in detail, a statement with which staff agrees. Sight distance, curb cut proximity, stacking distance, alignment with approved streets across Ruppel Road and relationship to the pedestrian movement along Ruppel Road will all be examined in detail at the time of development.
- Limitation of all access to Ruppel Road and Wedington Drive to streets only, and no individual curb cuts shall be permitted.
- Coordination with city staff to determine the appropriate lane geometry that is consistent with the desired traffic movement along Ruppel Road.
- Other improvements as deemed necessary, based on traffic generation, phasing and other applicable criteria.

12. City Council consideration of a Master Street Plan amendment to move Ruppel Road west of its planned location. *The current Master Street Plan indicates the alignment of Ruppel Road shifting east and bisecting a portion of the subject property. Recent concept designs prepared by staff for the transportation improvement/street bond program have indicated a different scenario (see attached), which is utilized with the Wellspring proposal. Staff recommends that further analysis take place for this important alignment and if needed, plans to be modified and brought back before the City Council for a final determination of the Master Street Plan amendment at the time of development.*
13. A Tree Preservation Plan shall be prepared at the time of development for each Planning Area. All development proposals shall meet the Tree Preservation and Protection Ordinance.
14. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: ☐ Approved ☐ Denied ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: February 13, 2006

Comments: _____

CITY COUNCIL ACTION:

Required

YES

City Council Action:

☐ Approved

☐ Denied

☐ Tabled

Motion: _____

Second: _____

Vote: _____

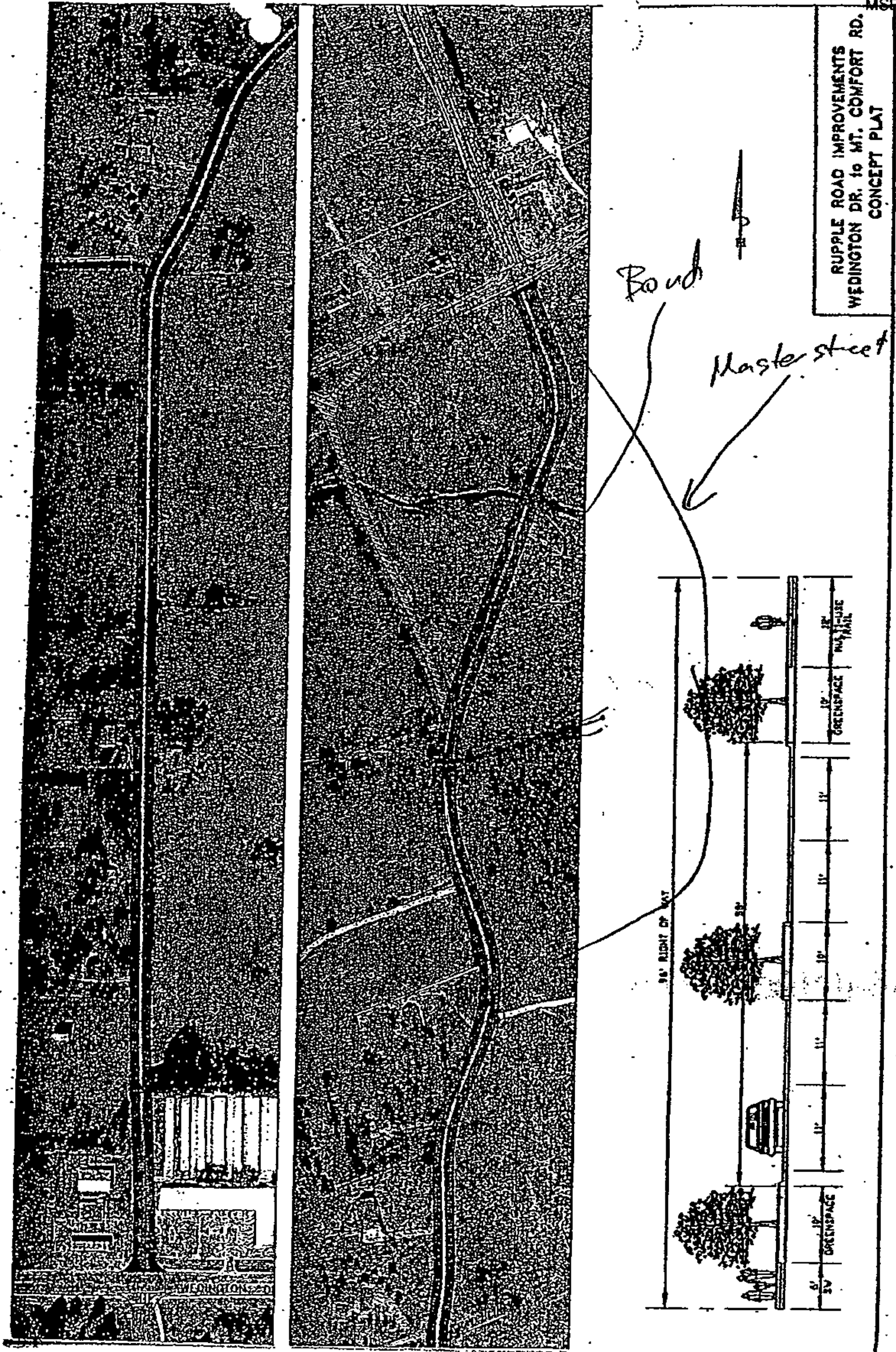
Meeting Date: February 21, 2006

Comments: _____

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By _____

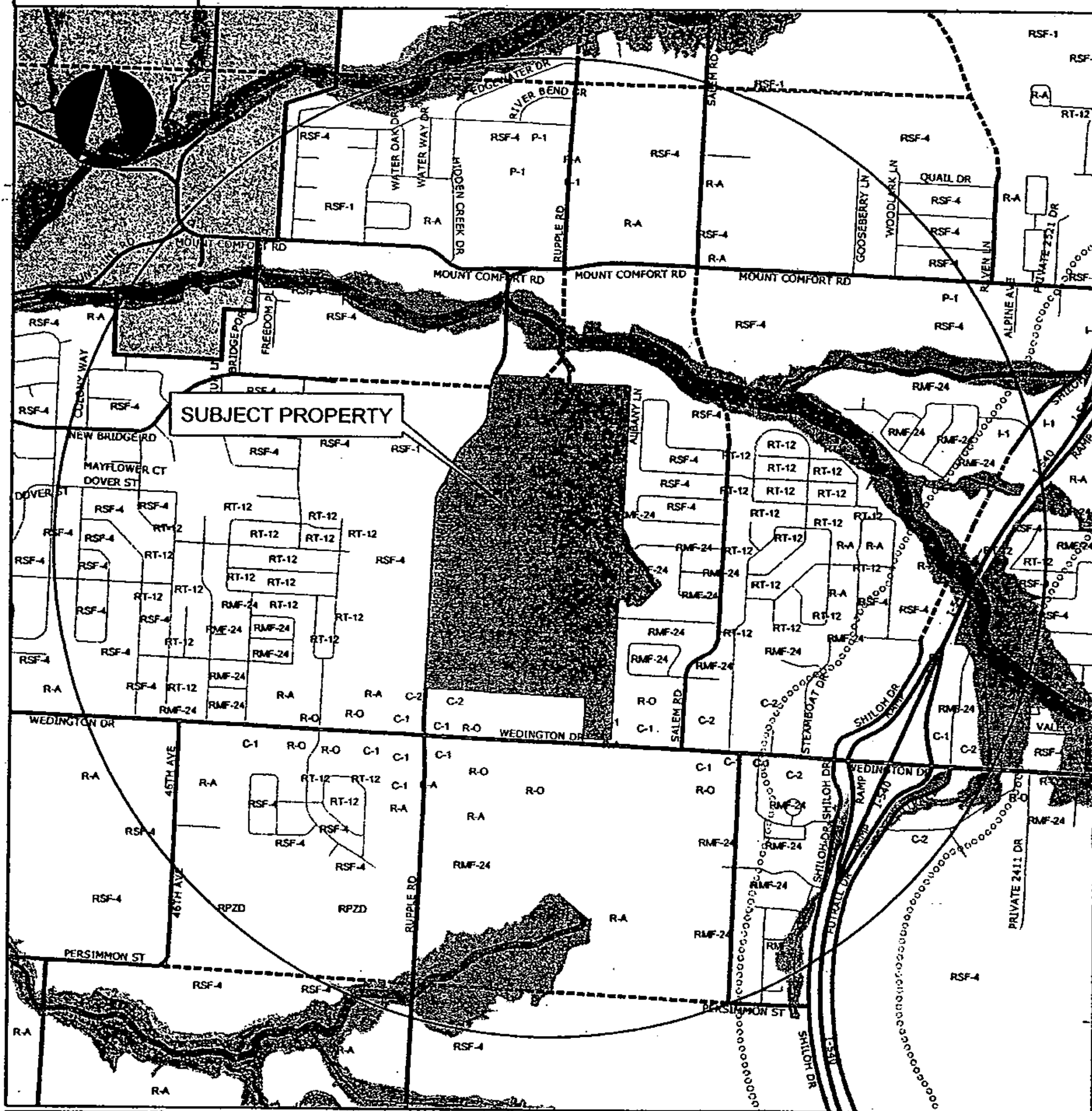
Date _____



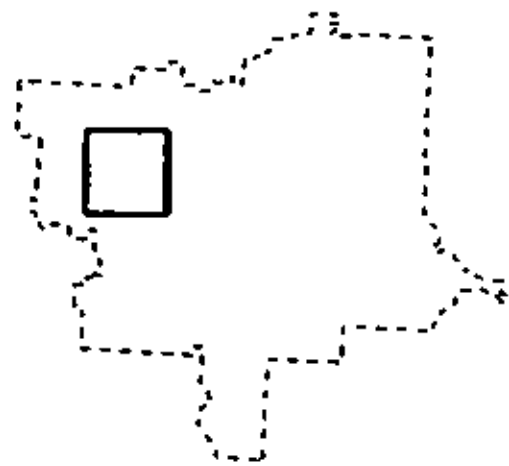
PZD05-1636

WELLSPRING

One Mile View



Overview



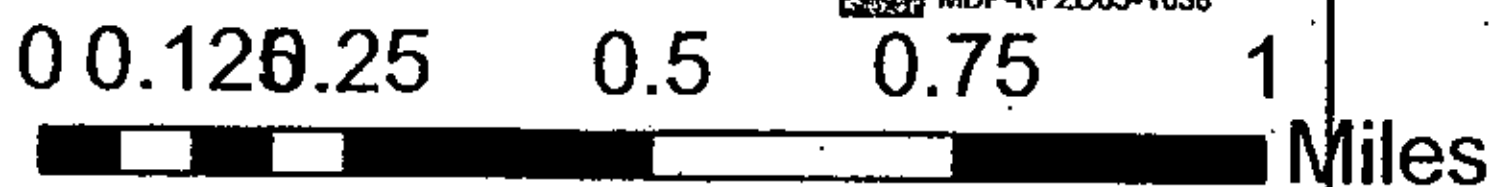
Legend

Subject Property

Boundary

- Planning Area
- Overlay District
- Outside City

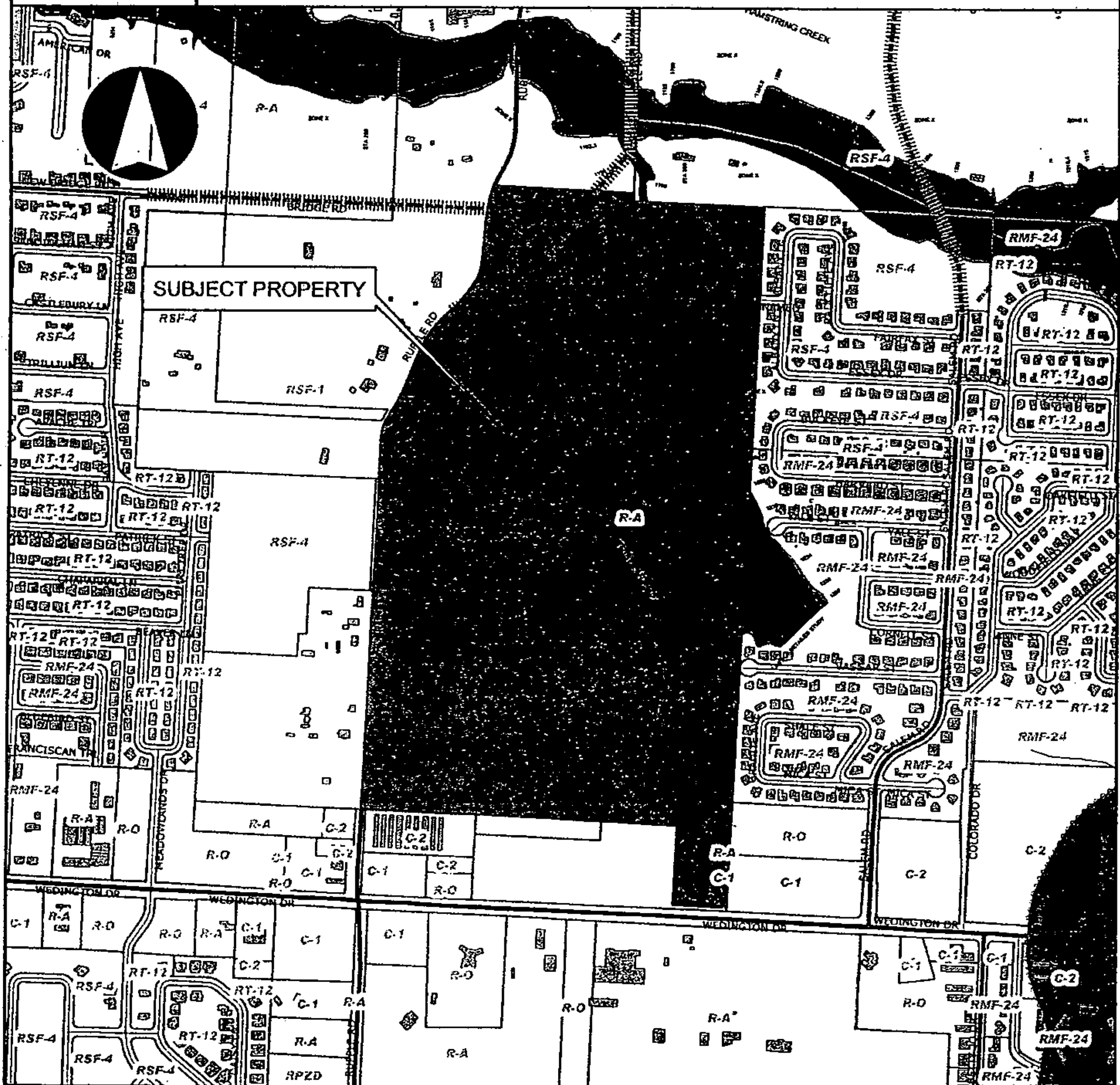
MDP-RPZD05-1636



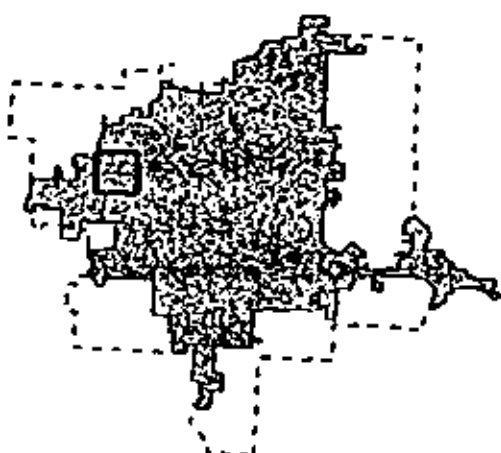
PZD05-1636

Close Up View

WELLSPRING



Overview



Legend

- PZD05-1636
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- MDP-RPZD05-1636

0 250 500 1,000 1,500 2,000
Feet

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

D. 2
State and Tribal
Assistance Grant (STAG)
Page 1 of 62

7/6/2006

City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Resolution authorizing Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) Program Application from the US Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's Authorized Representative in all matters relating to the procurement and administration of said grant, and approving a budget adjustment recognizing \$477,900 in grant revenue.

\$0.00

Cost of this request

\$

7,071,007.00

Category / Project Budget

Sanitary Sewer Rehabilitation

Program Category / Project Name

5400.5700.5815.00

Account Number

\$

3,017,299.00

Funds Used to Date

Sewer Mains Construction

Program / Project Category Name

02017

Project Number

\$

4,053,708.00

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

XX

Department Director

2 June 06
Date

Previous Ordinance or Resolution #

Original Contract Date:

N/A

City Attorney

6/12/06
Date

Original Contract Number:

N/A

Finance and Internal Service Director

6/12/06
Date

Received in City Clerk's Office



Mayor

6/12/06
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water/Wastewater Director



Date: June 2, 2006

Subject: Resolution authorizing Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) Program Application from the US Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's Authorized Representative in all matters relating to the procurement and administration of said grant, and approving a budget adjustment recognizing \$477,900 in grant revenue.

RECOMMENDATION

Fayetteville City Administration recommends approval of a resolution authorizing the Mayor to apply for and accept a STAG grant, execute all required documents, furnish required information and act as the City's Authorized Representative in all matters relating to the procurement and administration of said grant.

BACKGROUND

Fayetteville has been notified that it will be the recipient of \$477,900 in USEPA Grant Assistance from the State and Tribal Assistance Grant Program for 2006. This is the fourth consecutive year that the City has received similar grants. This EPA grant funding was requested for sanitary sewer rehabilitation and is proposed to be merged into the City's ongoing sewer rehabilitation funding to accelerate the program. The EPA grant provides a maximum of 55% of the costs, with the remaining 45% being the required local match.

DISCUSSION

Consultant work on sanitary sewer rehabilitation has been proceeding. It is anticipated that these funds will be combined with the 2005 grant funds, and used for rehabilitation in the Hamstring sewer basin and other areas. Field investigations have been underway in this area since June, 2005. The 2003 and 2004 grant funds are committed to the Basin 1-5 sanitary sewer rehabilitation construction that is currently underway.

BUDGET IMPACT

Sanitary sewer rehabilitation is a budgeted project. The 2006 EPA Grant proceeds will be combined with the City's budgeted funds and the \$481,200 in 2005 STAG grant funds to execute rehabilitation projects throughout the sanitary sewer system. A budget adjustment recognizing \$477,900 in grant revenue is attached.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND ACCEPT A STATE AND TRIBAL ASSISTANCE GRANT (STAG) FROM THE U. S. ENVIRONMENTAL PROTECTION AGENCY FOR SANITARY SEWER SYSTEM IMPROVEMENTS; DESIGNATING THE MAYOR AS THE CITY'S AUTHORIZED REPRESENTATIVE IN ALL MATTERS RELATING TO THE PROCUREMENT AND ADMINISTRATION OF SAID GRANT; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING \$477,900.00 IN GRANT REVENUE.

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 Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U. S. Environmental Protection Agency for sanitary sewer system improvements.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the Mayor as the City's Authorized Representative in all matters relating to the procurement and administration of said grant.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing \$477,900.00 in grant revenue.

PASSED and APPROVED this 6th day of July, 2006.

APPROVED:

By

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

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

D. 2
State and Tribal
Assistance Grant (STAG)
Page 4 of 62

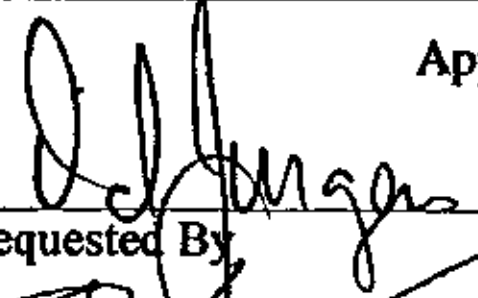
Budget Year 2006	Department: Water & Wastewater Division: Water & Sewer Maintenance Program: Sewer Mains Construction	Date Requested 6/1/2006	Adjustment Number
--------------------------------	---	---------------------------------------	--------------------------

Project or Item Added/Increased: \$477,900 is requested in the Sewer Improvements account of the Sanitary Sewer Rehabilitation- EPA Rehabilitaiton Grant Project.	Project or Item Deleted/Reduced: None. This action is required to recognize receipt of \$477,900 in the Federal Grants account.
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Justification of this Increase: Funding will be used for sanitary sewer rehabilitation to include repairs to sanitary sewer mains and manholes.	Justification of this Decrease: A grant was received from the Environmental Protection Agency for the purpose of sanitary sewer rehabilitation.
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Increase Expense Budget (Decrease Revenue Budget)						
Account Name	Account Number				Amount	Project Number
Sewer improvements	5400	5700	5815	00	477,900	02017

Decrease Expense Budget (Increase Revenue Budget)						
Account Name	Account Number				Amount	Project Number
Federal grants-Capital	5400	0940	4309	00	477,900	02017

Approval Signatures		Budget Office Use Only	
Requested By 	2 June 06 Date	Type: A B C <u> D </u> E	
Budget Manager 	6-2-06 Date	Date of Approval	Initial Date
Department Director 	2 June 06 Date	Posted to General Ledger	Initial Date
Finance & Internal Services Director	Date	Posted to Project Accounting	Initial Date
Mayor	Date	Entered in Category Log	Initial Date



Arkansas Natural Resources Commission

D. 2
State and Tribal
Assistance Grant (STAG)
Page 5 of 62



J. Randy Young, PE
Executive Director

101 East Capitol, Suite 350
Little Rock, Arkansas 72201
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Mike Huckabee
Governor

RECEIVED

JUN 08 2006

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

June 6, 2006

Mr. David Jurgens
Water & Wastewater Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Jurgens:

Please find enclosed a copy of the March 29, 2006 official Memorandum for the Award of Special Appropriation Act Project Grants Authorized by the Agency's FY 2006 Appropriations Act.

This memorandum lists all the appropriations for 2006. It lists the requirements you will need to abide by in order to receive your grant.

Please keep the memorandum in your grant file for future reference.

If you have any questions, please feel free to contact your Arkansas Natural Resources Project Administrator, Jayne Dooley, by phone, 501-682-0550, or by email, jayne.dooley@arkansas.gov.

Sincerely,

Jayne Dooley
Grants Coordinator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 29 2006

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Award of Special Appropriations Act Project Grants Authorized by the Agency's
FY 2006 Appropriations Act

FROM: *James A. Hanlon*
James A. Hanlon, Director
Office of Wastewater Management

TO: Water Management Division Directors
Regions I - X

PURPOSE

This memorandum provides information and guidelines on how the Environmental Protection Agency (EPA) will award and administer Special Appropriations Act Project (SAAP) grants and programs identified in the State and Tribal Assistance Grants (STAG) account of the Agency's fiscal year (FY) 2006 Appropriations Act.

BACKGROUND

The EPA section of P. L. 109-54, *Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes*, also referred to as the Agency's FY 2006 Appropriations Act, includes \$200,000,000 in the STAG account for 257 water, wastewater and groundwater infrastructure projects. Also included as separate line items in the STAG account were \$50,000,000 for the United States-Mexico Border Program and \$35,000,000 for the Alaska Rural and Native Villages Program. The FY 2006 Appropriations Act also contains a rescission of \$80 million from prior year funds in appropriations accounts available to EPA, including appropriations for special grant projects in FY 2000 or earlier that have not been obligated on an approved grant by September 1, 2006.

The specific requirements governing the award of the special projects and programs are contained in the following documents: the FY 2006 Appropriations Act, the Conference Report (H. Rept. No. 109-188), the House Report (H. Rept. No. 109-80), and the Senate Report (S. Rept. No. 109-80). The specific requirements contained in these documents have been incorporated into this memorandum.

Additionally, two technical corrections to prior appropriations acts were included in P. L. 109-97, *Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes*. Specifically, the Act includes an additional grant for \$300,000 for Haleyville, AL. These funds are to come from unallocated FY 2005 appropriations. The Act also includes an amendment to the FY 2002 VA-HUD Conference Report (H. Rpt. No. 107-272). Specifically, the conference report provided \$2,000,000 for the city of Florence, MT for wastewater treatment improvements. This grant is amended to provide \$29,945 to Florence, MT, \$500,000 to the City of Sheridan for water system improvements, \$500,000 to Meagher County/Martinsdale Water and Sewer District for Martinsdale Water System Improvements, and \$970,055 to the City of Bozeman for Hyalite Waterline and Intake.

THREE PERCENT SET-ASIDE

The Agency's FY 2001 Appropriations Act (P. L. 106-377) included a provision stating that the Administrator may use up to three percent of the amount appropriated for each earmark to fund State, Corps of Engineer or contractor support for the management and oversight of the special projects. This means that the set-aside monies cannot be used to pay for EPA staff or travel expenses. EPA issued a formal policy memorandum on September 27, 2001, that provides information and guidelines on how the Agency will implement the three percent set-aside provision.¹ EPA also issued a formal policy memorandum, SAAP 06-02, on January 20, 2006, that amends the aforementioned memorandum (attached).

The three percent set-aside provision is a permanent statutory authority which means it applies to all post-FY 2001 SAAPs including those listed in the STAG account of this year's Appropriations Act. However, the three percent set-aside provision does not apply to funds appropriated for specific programs, such as the Long Island Sound Restoration Program, the United States-Mexico Border Program and the Alaska Rural and Native Villages Program.

PROJECTS

The Conference Report that accompanied the Agency's FY 2006 Appropriations Act identified two projects funded from monies appropriated for the United States-Mexico Border Program. These two projects will be awarded and administered within the guidelines and provisions contained in this memorandum.

Attachment 1 identifies the 257 earmarks listed in the STAG account and the two projects funded from monies appropriated for the United States-Mexico Border Program. Attachment 1 also shows the original amount appropriated for each project, as well as the actual amount available for grant award after the reduction due to the .476 percent rescission, the 1 percent rescission, and three percent set-aside provision.²

¹This document is available on the internet at www.epa.gov/owm/mab/owm0318.pdf.

² States that choose to perform the necessary construction oversight activities for the planning, design and building phases of a project

The SAAPs identified in Attachment 1 will be awarded and administered by the Regional Offices. The delegation of authority (1200 TN 516), issued on September 28, 2000 (Attachment 2), is listed in Chapter 1, Delegation Number 1-102, of EPA's Delegation Manual. This delegation of authority transferred the authority to award grants and cooperative agreements for funds included in the STAG account to the Assistant Administrator for Water and the Regional Administrators. Accordingly, the Regions and Headquarters have the necessary authority, effective the date of this memorandum, to award grants and cooperative agreements for the special projects and programs identified in the STAG account of the Agency's FY 2006 Appropriations Act.

COST-SHARE REQUIREMENT

The FY 2006 Conference Report language that precedes the listing of the 257 STAG earmarks (H. Rep. No. 109-188, at p. 32) states that:

\$200,000,000 shall be for making special project grants for the construction of drinking water, wastewater, and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency;

The report language does not specify that the Agency may only approve waivers to the 45 percent matching requirement that are based on financial capability issues. Though the language from previous years requiring that waivers be based on financial capability issues was not included, the Agency will continue to operate as if the language remained. Accordingly, our policy for the projects listed in Attachment 1 is that grant applicants will be expected to pay for 45 percent of the project costs unless there is specific language in the Conference Report or Appropriations Act that specifies a different matching requirement or a waiver to the matching requirement is approved based on financial capability issues.

Furthermore, in those situations where the description in the Conference Report explicitly defines the scope of work of the project, the Federal share of the grant will be limited to 55 percent of the estimated cost for completing the scope of work described, regardless of the amount appropriated for the project, unless a waiver to the matching requirement is approved based on financial capability issues. This means, in some instances, that the grant amount will be less than the amount appropriated for the project and that some funds will not be obligated. The disposition of any such unobligated grant funds will be determined by Congress.

at their own expense may request to have the three percent set-aside funds assigned to the respective grant recipients within their States. Headquarters will transfer the necessary funds to the Regions for this purpose after the formal review and approval of the State's request.

WAIVERS TO THE MATCHING REQUIREMENT

In March 1997, EPA published *Combined Sewer Overflows -- Guidance for Financial Capability Assessment and Schedule Development*.³ This financial guidance document includes a process for measuring the financial impact of current and proposed wastewater treatment facilities and drinking water facilities on the users of those facilities, and establishes a procedure for assessing financial capability. The process for assessing financial capability contained in that document was initially developed in the 1970's and has been extensively revised based on EPA's experience in the construction grants, State Revolving Fund (SRF), enforcement and water quality standards programs. The assessment process requires the calculation of a financial capability indicator. The Agency approves waivers in those cases where the financial capability indicator shows that the project would result in a high financial burden on the users of the facility.

Exceptions to the 45 percent match requirement must be approved by EPA Headquarters. All requests for an exception should be prepared by the EPA Regional Offices using information provided by the grant applicant. The request must include the information contained in Chapters III and IV of the Financial Capability Assessment guidance document.⁴ The requests, including the necessary supporting documentation and appropriate background material, should be submitted to the Director, Office of Wastewater Management, (Mail Code 4201M), USEPA, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460.

FEDERAL FUNDS AS A SOURCE OF MATCHING FUNDS

Federal funds from other programs may be used as all or part of the match for the SAAPs only if the statute authorizing those programs specifically allows the funds to be used as a match for other Federal grants. Additionally, the other Federal programs must allow their appropriated funds to be used for the planning, design and/or construction of water, wastewater or groundwater infrastructure projects. Listed below are the major Federal programs whose grant or loan funds can be used to provide all or part of the match for the SAAPs:

- Department of Agriculture, Rural Development program;
- Department of Housing and Urban Development, Community Development Block Grant program; and
- Appalachian Regional Commission grants.

³This document is available on the internet at www.epa.gov/owm/pdfs/csofc.pdf.

⁴ All of the financial data used to calculate the financial capability indicator must be indexed to the same year. The Bureau of Labor Statistics' web site (www.bls.gov/cpi/) contains an "Inflation Calculator" that will automatically perform this function.

As previously stated, Federal funds may be used as all or part of the match for other Federal grant programs only if the authorizing legislation includes such authority. Since the FY 2006 Appropriations Act does not include such language, the special Appropriations Act grant funds cannot be used as a source of matching funds for other Federal programs.

LOANS FROM A STATE REVOLVING FUND AS A SOURCE OF MATCHING FUNDS

The Agency provides funding for two separate State Revolving Fund (SRF) loan programs, the Clean Water State Revolving Fund (CWSRF) program and the Drinking Water State Revolving Fund (DWSRF) program. The Agency has taken actions that allow particular sources of funds from the two SRF programs to be used as a source of the local match. Specifically, the Agency issued the following two documents:

- A class deviation from the regulatory provisions of 40 CFR 35.3125(b)(1). The class deviation,⁵ issued August 16, 2001, pertains to the CWSRF program.
- A policy memorandum designated as DWSRF 02-01. The policy memorandum,⁶ issued October 10, 2001, pertains to the DWSRF program.

The class deviation and policy document listed above allow State SRF programs to use the non-Federal and non-State match share of SRF funds to provide loans that can be used as the match for the special projects. The non-Federal funds include repayments, interest earnings and bond proceeds. The non-State match share (i.e., the overmatch) is any State contribution to the SRF above the statutorily required 20 percent match.

The use of a loan from an SRF to provide part of or the entire match for a SAAP is a State SRF program agency decision. However, the action must be consistent with established State policy, guidelines and procedures governing the use of SRF loans. Projects that receive SRF assistance must also adhere to Federal CWSRF or DWSRF program requirements relating to eligibility and prioritization.

PRE-AWARD COSTS

The Grants Administration Division (GAD) issued a policy memorandum (GPI 00-02) on March 30, 2000, that applies to all grants, including special Appropriations Act projects awarded on or after April 1, 2000. Additionally, a clarification to the policy memorandum (GPI 00-02(a)) was issued by GAD on May 3, 2000. The two memorandums revised the Agency's interpretation of a provision contained in the general grant regulations at 40 CFR 31.23(a) concerning the approval of pre-award costs.

⁵This document is available on the internet at www.epa.gov/owm/mab/owm0324.pdf.

⁶This document is available on the internet at www.epa.gov/owm/mab/owm0325.pdf.

In essence, the GAD memorandums state that:

- Recipients may incur pre-award costs [up to] 90 calendar days prior to award provided they include such costs in their application, the costs meet the definition of pre-award costs and are approved by the EPA Project Officer and EPA Award Official.
- The award official can approve pre-award costs incurred more than 90 calendar days prior to grant award, in appropriate circumstances, if the pre-award costs are in conformance with the requirements set forth in OMB Circular A-87 and with applicable Agency regulations, policies and guidelines.

The GAD memorandums state that the award official can approve pre-award costs incurred prior to grant award in appropriate situations if the approval of the pre-award costs is consistent with the intent of the requirements for pre-award costs set forth in OMB Circular A-87 and are in conformance with Agency regulations, policies and guidelines. The following two situations meet these requirements:

- Any allowable costs incurred *after* the start of the fiscal year for which the funds were appropriated but before grant award (*for FY 2006 projects, this date is October 1, 2005*).
- Allowable facilities planning and design costs associated with the construction portions of the project included in the grant that were incurred *before* the start of the fiscal year for which the funds were appropriated (*for FY 2006 projects, this date is October 1, 2005*).

Accordingly, effective April 1, 2000, the Regions have the authority to approve pre-award costs for the two situations described above. Any approval, of course, is contingent on the Regional Office determination that the pre-award costs in question are in conformance with the applicable Federal laws, regulations and executive orders that govern EPA grant awards and are allowable, reasonable and allocable to the project.

The Regions may not approve any pre-award costs for SAAPs, other than those that involve the two situations discussed above, without written approval from Headquarters. The request, with sufficient supporting documentation, should be submitted to the Director, Office of Wastewater Management, (Mail Code 4201M), USEPA, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460. The Office of Wastewater Management will consult, in appropriate circumstances, with the Grants Administration Division and the Office of General Counsel. If appropriate, a deviation from 40 CFR 31.23(a) will be processed and issued.

LAWS, REGULATIONS AND REQUIREMENTS

A listing of the Federal Laws and Executive Orders that apply to all EPA grants, including the projects authorized by the Agency's FY 2006 Appropriations Act, is contained in Attachment 3. Some of the authorities only apply to grants that include construction, e.g., EO 13202. A more detailed description of the Federal laws, Executive Orders, OMB Circulars and their implementing regulations is contained in Module No. 2 of the EPA Assistance Project Officers Training Course which is available through the Regional Grants Management Offices.

The regulations at 40 CFR Part 31 apply to grants and cooperative agreements awarded to State and local (including tribal) governments. The regulations at 40 CFR Part 30 apply to grants with nonprofit organizations and with non-governmental for-profit entities. In appropriate circumstances, such as grants for demonstration projects, the research and demonstration grant regulations at 40 CFR Part 40 can be used to supplement either 40 CFR Part 30 or Part 31.

The Agency issued a memorandum⁷ in January 1995, concerning the applicability of 40 CFR Part 29 (Intergovernmental Review) to the special projects authorized by the Agency's FY 1995 Appropriations Act. That memorandum also applies to the special projects authorized by the Agency's FY 2006 Appropriations Act.

The Davis-Bacon Act does not apply to grants awarded under the authority of the Agency's FY 2006 Appropriations Act because the Act does not include language that makes it apply. However, if FY 2006 funds are used to supplement funding of a construction contract that includes Clean Water Act title II requirements (e.g., contracts awarded under the construction grants or coastal cities programs), the entire contract is subject to Davis-Bacon Act requirements, including the portion funded with FY 2006 funds.

SPECIFIC ENVIRONMENTAL REQUIREMENTS

The National Environmental Policy Act (NEPA) and other relevant applicable statutes and Executive Orders, such as the Endangered Species Act (ESA), apply to the SAAPs and programs in the STAG account authorized by the Agency's FY 2006 Appropriations Act. The applicable NEPA regulations are the Council of Environmental Quality's implementing regulations at 40 CFR Parts 1500-1508 and EPA's NEPA regulations at 40 CFR Part 6, Subparts A-D.

The Agency issued a memorandum (Attachment 4) on January 20, 1995, concerning NEPA compliance for the SAAPs authorized by the Agency's FY 1995 Appropriations Act. That memorandum also applies to the SAAPs authorized by the Agency's FY 2006 Appropriations Act.

⁷This document is available on the internet at www.epa.gov/owm/mab/owm0326.pdf.

The development of information needed to determine compliance with NEPA and other cross-cutting Federal requirements is an allowable cost that can, and should, be included in the scope of work of the grant if not performed prior to grant award. These activities can be funded on an incremental basis, by awarding a grant that only includes these activities, or as part of the entire project (i.e., planning, design and construction) with the stipulation, in the form of a grant condition, stating that EPA will not approve or fund any work beyond the conceptual design point⁸ until the applicable requirements of such authorities have been met. The Agency issued a memorandum (Attachment 5) on July, 29, 2003 that contains a model grant condition that should be used in this situation.

It should be noted that NEPA and other cross-cutting Federal requirements that apply to the major Federal action (i.e., the approval and/or funding of work beyond the conceptual design point) cannot be delegated. Although EPA can fund the grantee or state/tribal development of an Environmental Information Document (EID) or other analysis to provide supporting information, EPA has the legal obligation to issue the NEPA documents, to sign NEPA determinations, and to fulfill other cross-cutting Federal requirements before approving or paying for design and/or construction.

When both EPA and another Federal agency are funding the same project, the agencies may negotiate an agreement for one to be the lead agency for performing grant oversight and management activities, including those related to NEPA and other cross-cutting Federal requirements. The lead agency can be the one which is providing the most funds for the project, or the agency that provided the initial funds for the project. If an environmental impact statement (EIS) is required, EPA should be a co-lead or cooperating agency so that it can adopt the EIS without recirculating it. If the project requires an environmental assessment (EA), EPA may adopt the other agency's EA and use it as a basis for its finding of no significant impact (FONSI), provided EPA has independently reviewed the EA and agrees with the analysis and circulates the FONSI and attached EA for the requisite 30 day comment period. Note that EPA may not use a categorical exclusion of another Federal agency unless EPA's regulations at 40 CFR Part 6 also provide for the categorical exclusion.

OPERATING GUIDELINES

The authority for awarding grants for the SAAPs listed in Attachment 1 and the United States-Mexico Border Program is Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, (P. L. 109-54). The authority for awarding grants for the Alaska Rural and Native Villages Program is section 303 of the Safe Drinking Water Act Amendments of 1996 (P. L. 104-182) and Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, (P. L. 109-54).

⁸Completion of conceptual design is essentially the same as completion of facility planning as defined in EPA's Construction Grants program.

The Catalog of Federal Domestic Assistance (CFDA) number for the SAAPs is 66.202 "Congressionally Mandated Projects." The Object Class Code (budget and accounting information) for the SAAPs is 41.83. Applicants should use Standard Form 424 (Version 7/03) to apply for the grants.

Location of Project

To be able to report on environmental and public health benefits, the Agency has decided to collect, and store in an appropriate database, the geographic location for grant funded infrastructure projects. Accordingly, all SAAP grants authorized by the FY 2006 Appropriations Act should include a term and condition stating that locational information must be submitted. In addition, in accordance with OMB Circular A-16 and the One-Stop Geospatial E-gov Initiative, Program Offices must indicate in the funding recommendation for a proposed assistance agreement that the grant involves or relates to geospatial information. For most projects, the specific information needed is the National Pollutant Discharge Elimination System (NPDES) number(s) or the Safe Drinking Water Information System (SDWIS) number(s). EPA's information technology (IT) systems will use the NPDES and the SDWIS numbers to determine the specific geographic parameters of the project. For those situations where NPDES and SDWIS identifiers are not appropriate, the longitude and latitude of the project should be provided.

Grants to Nonprofit Organizations

Funds appropriated under the STAG account can, if the situation warrants, be used for grants to nonprofit organizations. However, grants cannot be awarded to a nonprofit organization classified by the Internal Revenue Service as a 501(c)(4) organization unless that organization certifies that it will not engage in lobbying activities, even with their own funds (see Section 18 of the Lobbying Disclosure Act, 2 U.S.C.A § 1611). The rationale for any award to a nonprofit organization should be clearly explained, suitably documented, and included in the project file.

Additionally, EPA Order 5700.8, "Assessing Capabilities of Non-Profit Applicants for Managing Assistance Awards⁹," requires programmatic and administrative capability determinations be made for each monetary action for a non-profit recipient. Further, if the award is for more than \$200,000 in federal funds, the applicant may be required to complete an "EPA Administrative Capability Questionnaire" and submit supporting documentation demonstrating sufficient administrative capability to successfully manage the agreement. The inability to successfully demonstrate either programmatic or administrative capability under the Order may result in the Agency not making an award.

⁹ The Order may be found at: http://intranet.epa.gov/ogd/policy/Order/5700_8.pdf

Grants to Private For-Profit Entities

Funds appropriated under the STAG account may be used for grants to private for-profit entities, such as a privately owned drinking water company, when the language contained in the Conference Report clearly indicates that intention. The specific requirements for awarding a grant to a private for-profit entity will be addressed in a policy memorandum in the upcoming year.

Grant Recipient

The Agency's FY 2006 Appropriations Act included the following language pertaining to the identification of the grantee:

"notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection."

Therefore, if the grantee is specified, such as a local water quality department, any change to the grantee must be submitted to EPA Headquarters in accordance with SAAP memo 06-01 (attached, issued 10/26/05). Additionally, any change to the named grantee, such as from a county to town, or from one town to another, must also be submitted in accordance with SAAP memo 06-1. The only circumstance in which EPA Headquarters approval is not needed is if the intended grantee is an agency of the specified grantee. For instance, if the grantee is listed as Anytown, USA, but the intended grantee is the Anytown Department of Water Quality, the grant may be made to the intended grantee without EPA Headquarters approval. EPA's Office of General Counsel has agreed that in circumstances where information is missing, EPA has the discretion to determine the appropriate grantee.

Ownership Requirements

With the exception of small, on-site/decentralized wastewater treatment systems, which are discussed later in this section, and specific programs, such as the United States-Mexico Border Program and the Alaska Rural and Native Villages Program, only wastewater and drinking water infrastructure facilities that are or will be owned by the grant or subgrant recipient are eligible for grant funding. This means that house laterals (the sewer line from the collection system to the house) and drinking water service lines (the line from the drinking water distribution system to the house) must be owned by the grantee or subgrantee in order for these facilities to be eligible for grant funding. The ownership requirement applies to new construction, as well as the rehabilitation of existing facilities, and to infiltration/inflow correction associated with existing sewer lines, including house laterals. The grantee or

subgrantee can have ownership by either fee simple title, by the issuance of an enforceable easement with right of access, or other suitable authority such as an ordinance assuring right of access for such purposes as inspection, monitoring, building, operation, rehabilitation and replacement. Since the grantee or subgrantee has ownership of these facilities, the grantee or subgrantee would be responsible for the operations and maintenance of those facilities for the life of those facilities. Additionally, the grantee or subgrantee could not transfer ownership of the facilities to any entity without written approval from EPA.

In those rare situations where a grant or subgrant is awarded to a governmental or nonprofit entity that does not have the legal authority to own or operate drinking water, wastewater, or groundwater protection infrastructure facilities, and the grant includes the construction or acquisition of infrastructure facilities, that entity can transfer ownership of the grant funded infrastructure facilities with the approval of EPA. In all cases, the receiving entity must have the managerial and legal capability to assume all of the relevant responsibilities associated with the ownership of an EPA grant funded infrastructure facility, including any special conditions contained in the original grant agreement. Generally, EPA's approval to transfer ownership should be incorporated into the grant award document in the form of a special term and condition.

On-Site Systems

For small, privately-owned, on-site/decentralized wastewater treatment systems, such as a septic system or individual drinking water wells, an eligible applicant may apply for a grant to build or renovate these privately-owned systems. In such cases the applicant must:

- demonstrate that the total cost and environmental impact of building the decentralized system will be less than the cost of a conventional system;
- certify that ownership by a public entity or a suitable non-profit organization (such as a home owners' association or cooperative) is not feasible and list the reasons;
- certify that the treatment facilities will be properly operated and maintained for the life of the facilities; and
- provide assurance of access to the systems at all reasonable times for such purposes as inspection, monitoring, building, operation, rehabilitation and replacement.

Intermunicipal Projects and Service Agreements

Although a special Appropriations Act grant may be awarded to one entity, the successful operations of the grant funded project may depend on the support and cooperation of other entities, municipalities, or utility districts. This is especially evident when one entity is providing wastewater treatment services or supplying drinking water to another entity. Accordingly, for projects involving interactions between two or more entities, the applicant

should provide assurances that the grant funded project will function as intended for its expected life. Adequate assurance may be met through the creation of special service districts, regionalization of systems, or intermunicipal service agreements.

Special service districts and regionalization of systems are considered to be obligations in perpetuity to serve the customers of the newly created authority and automatically meet the expected lifetime requirements. The intermunicipal service agreement or contract is a legal document for cooperative ventures between separate entities, both of which wish to continue functioning with a large degree of independent control in their respective service areas. Such agreements will need to extend for a minimum number of years for an EPA funded project to be considered viable. For the purposes of SAAPs and STAG programs, EPA will accept the following contract lifetimes as meeting the minimum standard¹⁰:

<u>ITEM</u>	<u>LIFE (years)</u>
• <u>Land</u>	Permanent
• <u>Wastewater/Water Conveyance Structures:</u> collection systems, pipes, interceptors, force mains, tunnels, distribution lines, etc.	40
• <u>Other Structures:</u> plant buildings, concrete tankage, basins, lift station and pump station structures, inlet structures, etc.	30
• <u>Wastewater and Drinking Water Process Equipment</u>	15
• <u>Auxiliary Equipment</u>	10

A shorter time frame may be accepted if suitably justified and approved by EPA.

¹⁰The anticipated useful life of the facility components is based on the low end of the assumed service life for items in EPA's Construction Grants Program and past experience with the award and administration of special Appropriations Act projects.

Non-Construction Costs

The scope of work of a grant may include planning, design and administrative activities, and the cost of land. Land need not be an "integral part of the treatment process" as in the Clean Water Act title II construction grant program. However, all elements included within the scope of work of the grant must conform to the requirements of 40 CFR Parts 30 or 31. This means, if planning, design and administrative activities are included in the grant, the procurement of those services and the contracts must comply with the applicable sections of Parts 30 or 31. If land is included, there will be a Federal interest in the land regardless of when it was purchased and the purchase must be (must have been) in accordance with the applicable sections of Parts 30 or 31 and the Uniform Relocation Assistance and Real Property Acquisition regulations for Federal and Federally assisted programs at 49 CFR Part 24.

Refinancing

Funds appropriated for the SAAPs may not be awarded solely to repay loans received from a State Revolving Fund or other indebtedness unless there are explicit instructions to do so in the Appropriations Act or accompanying reports, or the facts of the case are such that this is the only way to award the funds that were appropriated for the project. Any request to use SAAP grant funds to repay a loan, in whole or in part, must be approved, in writing, by EPA Headquarters. The request, with sufficient supporting documentation, should be submitted to the Director, Office of Wastewater Management, (Mail Code 4201M), USEPA, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460.

Definitions

In the context of determining that the scope of work of the grant is in conformance with the project description contained in Attachment-1, the word "water" can be considered to mean: drinking water, wastewater, storm water or combined sewer overflow. Furthermore, the words "and" & "or" as used in the project description are interchangeable. Additionally, the phrases "sewer project," "sewer improvements," "sewer upgrade," "sewer development," "sewer expansion," "sewer system," "plant project," "plant upgrade," or "plant expansion" are considered broad enough to include all aspects of the upgrade, expansion and development of a complete wastewater treatment system as defined at 40 CFR 35.2005(12). Comparable phrases concerning the project descriptions for drinking water facilities should be similarly interpreted.

ENVIRONMENTAL RESULTS UNDER EPA ASSISTANCE AGREEMENTS

Introduction

EPA Order 5700.7¹¹, "Environmental Results Under Assistance Agreements", applies to all non-competitive funding packages/funding recommendations submitted to the Grants Management Offices after January 1, 2005. The Order requires EPA Program Offices to: 1) link

¹¹The Order is available on the EPA intranet at <http://intranet.epa.gov/ogd/policy/Order/5700.7.pdf>

proposed assistance agreements to the Agency's Strategic Plan/Government Performance and Results Act (GPRA) architecture; 2) ensure that outputs and outcomes are appropriately addressed in assistance agreement work plans¹² and funding recommendations; and 3) ensure that progress in achieving agreed-upon outputs and outcomes is adequately addressed in recipient progress reports and advanced monitoring activities.

The Strategic Plan/GPRA Architecture

EPA's *2003 Strategic Plan*¹³ sets out five long-term goals for the next five years. Each of these five goals is supported by a series of objectives and sub-objectives that identify, as precisely as possible, what environmental outcomes or results the EPA seeks to achieve within a defined time frame using resources expected to be available. The objectives and sub-objectives established in EPA's Strategic Plan are part of the "GPRA architecture" that is used to measure the EPA's progress in meeting its strategic goals.

Program offices must include in the funding package for a proposed assistance agreement a description of how the project fits within the EPA's Strategic Plan/GPRA architecture. In developing the aforementioned descriptions, a project officer must list all applicable EPA strategic goals and objectives and, where available, sub-objectives. The project officer must ensure that the Program Results Code(s) (PRCs) listed on the commitment notice is consistent with the selected strategic goals, objectives and sub-objectives. The Strategic Plan/Program Results Code Crosswalk, which summarizes the strategic goals, objectives, sub-objectives, and the PRCs for every EPA assistance agreement program, is attached to Appendix A of EPA Order 5700.7.

Outputs and Outcomes

The term "output" means an environmental activity, effort, and/or associated work products related to an environmental goal or objective, that will be produced or provided over a period of time or by a specified date. See EPA Order 5700.7. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period. Outputs reflect the products and services provided by the recipient, but do not, by themselves, measure the programmatic or environmental results of an assistance agreement. Examples of outputs for SAAPs are:

- Number of additional homes (or equivalents) provided adequate wastewater treatment (can be centralized or decentralized).
- Number of additional homes (or equivalents) provided safe drinking water.

¹²Throughout this section, the term "work plan" is used for convenience. For construction projects, outputs/outcomes are normally included in a Facility Plan, Preliminary Engineering Report, or an Environmental Information Document. In many cases these documents may not exist at the time of grant application. In those situations the development of the documents will be included in the scope of work of the assistance agreement.

¹³The Strategic Plan is available on the internet at www.epa.gov/ocfo/plan/2003sp.pdf

- Percent improvement in infrastructure reliability and maintenance (e.g., collection and distribution system improvements, pump replacement, improvements at wastewater treatment or drinking water facilities plant, upgrade, expansion, integrity, reduction of infiltration/inflow, etc.).
- Capacity (MGD) of newly constructed wastewater treatment plant.
- For expansion of an existing wastewater treatment plant, increase in capacity (MGD) of plant.
- For upgrade of an existing wastewater treatment plant, new level of treatment provided.
- Storage (MG) provided by newly constructed drinking water tank.
- Storage (MG) provided by new reservoirs.
- Population served by new construction.
- Feet of sewer lines replaced.
- Feet of sewer lines extended.
- Feet of water lines replaced.
- Feet of water lines extended.
- Wet-weather improvement:
 - Estimated number of combined sewer overflows (CSOs) reduced.
 - Estimated amount (e.g., million gallons per year) of untreated wastewater not discharged as a result of CSO improvements.
 - Number of sanitary sewer overflows reduced.
 - Storm water improvements.
- Environmental restoration improvements.
- Enhanced security improvements to wastewater or drinking water facilities.

The term "outcome" means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. See EPA Order 5700.7. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period. There are two major types of outcomes - end outcomes and intermediate outcomes. End outcomes are the desired end or ultimate results of a project or program. They represent results that lead to environmental/public health

improvement. Intermediate outcomes are outcomes that are expected to lead to end outcomes but are not themselves "ends." Given that the end outcomes of an assistance agreement may not occur until after the assistance agreement funding period, intermediate outcomes realized during the funding period are an important way to measure progress in achieving end outcomes.

Program offices must include in the funding recommendation for a proposed assistance agreement an assurance that the program office has reviewed, or will review, the assistance agreement work plan¹⁴ and that the work plan includes, or will include, well-defined outputs and, to the maximum extent practicable, well-defined outcomes.

The CWSRF program has finalized a "Benefits Assessment" format for individual projects, see Attachment 6. This format can be used to measure "outcomes" for the SAAPs. Accordingly, the Regions can include the information contained in Items 1, 2, 3, and 4 of Attachment 6 as a means for measuring and reporting outcomes. The measurement of environmental outcomes is in the developmental stages. The Regions will be informed of changes as they occur.

Examples of Acceptable Descriptions In Assistance Agreement Funding Recommendations

Program offices must include in the funding recommendation for a proposed assistance agreement a description of how the program/project fits within the Agency's Strategic Plan/GPRA architecture. The following are examples of acceptable descriptions in assistance agreement funding recommendations:

Example 1:

This project supports Goal 2 (Clean and Safe Water), Objective 2.2 (Protect Water Quality), Subobjective 2.2.1 (Improve Water Quality on a Watershed Basis). The overall goal of the project is to provide adequate wastewater treatment services for those areas of the community with failing on-site septic systems. The Project Results Code (PRC) assigned to the funding for this project is 202B51E which is consistent with the strategic goal/objective/subjective. The (name of Division/Branch) in (Region __) has reviewed the work plan¹⁵ for this project and determined that it contains well-defined outputs, and to the maximum extent practicable, well defined outcomes.

Example 2:

This project supports Goal 2 (Clean and Safe Water), Objective 2.1 (Protect Human Health), Subobjective 2.1.1 (Water Safe to Drink). The overall goal of the project is lower the amount of arsenic in the drinking water to meet revised permit requirements. The Project Results Code (PRC) assigned to the funding for this project is 201B51E which is consistent with the strategic goal/objective/subjective. The (name of Division/Branch) in (Region __) will review the work

¹⁴See Footnote 11, supra.

¹⁵See Footnote 11, supra.

plan¹⁶ for this project and will determine that it contains well-defined outputs, and to the maximum extent practicable, well defined outcomes when these measures are developed. These measures will be developed during the planning portion of the grant. Additionally, EPA will not fund any design or construction work until these measures are accepted.

EPA Review of Recipient Performance Reports

EPA Order 5700.7 also establishes requirements for program office review of construction and non-construction interim and final recipient performance reports for progress in achieving outputs and outcomes contained in assistance agreement work plans. Under 40 CFR Parts 30 and 31, EPA may require recipients to submit performance/progress reports as frequently as quarterly but no less frequently than annually. These regulations also require recipients to provide the EPA with an acceptable final performance report at the end of a project. While performance reports are one way for the EPA to obtain information on a recipient's progress toward achievement of agreed-upon outputs and outcomes, program offices may also conduct mid-year and end-of-year reviews to evaluate recipient performance.

The review of recipient performance reports is largely the responsibility of the EPA project officer. The project officer must review interim¹⁷ and final¹⁸ performance reports to determine whether they adequately address the achievement of agreed-upon outputs/outcomes, including providing a satisfactory explanation for insufficient progress or a failure to meet planned accomplishments (when compared with the most recently approved project schedule and completion dates for project milestones). This review must be documented in the official project file. If a report does not adequately address the achievement of outputs/outcomes, the project officer should seek further explanation from the recipient and require appropriate corrective action.

Award officials must use the following special conditions in all assistance agreements requiring performance reports to provide a comparison of actual accomplishments to agreed-upon outputs/outcomes:

Required special conditions for assistance agreements to State and local governments:

In accordance with 40 CFR. §31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met by

¹⁶See Footnote 11, supra.

¹⁷For construction projects, on-site technical inspections and certified percentage of construction data meet the interim reporting requirements, see 40 CFR 31.40(c).

¹⁸For construction projects, the final inspection report or other final performance report should include a comparison of the actual outcomes/outputs with those incorporated into the assistance agreement.

the agreed upon or scheduled date; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 CFR § 31.40(d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

Required special conditions for assistance agreements to institutions of higher education and other non-profit organizations:

In accordance with 40 CFR § 30.51(d), the recipient agrees to include in performance reports submitted under this agreement brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes specified in the assistance agreement work plan and scheduled or established for the period; 2) reasons why anticipated outputs/outcomes were not met; and 3) other pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 CFR § 30.51(f), the recipient agrees that it will notify EPA of problems, delays or adverse conditions which materially impair the ability to meet the outputs/outcomes or objectives of the award specified in the assistance agreement work plan and what corrective actions are being contemplated to resolve the situation.

Advanced Monitoring

EPA Order 5700.7 directs program offices, when conducting on-site reviews or desk reviews under EPA Order 5700.6, *Policy on Compliance, Review and Monitoring*, to include an assessment of the recipient's progress in achieving the outputs and outcomes set forth in the assistance agreement work plan.¹⁹ If the assessment reveals significant problems in meeting agreed-upon outputs/outcomes, the project officer must require the recipient to develop and implement an appropriate corrective action plan and implementation schedule. The results of the assessment must be documented in the Grantee Compliance Database in a format determined by the Director of the Grants Administration Division.

PROGRAM SPECIFIC GUIDELINES

The Agency's FY 2006 Appropriations Act and accompanying reports contain a number of requirements for the United States-Mexico Border Program and the Alaska Rural and Native Villages Program. This section describes the Agency's interpretation and planned implementation of those requirements.

¹⁹See Footnote 11, *supra*.

United States-Mexico Border Program

The Agency's FY 2006 Appropriations Act provides \$49,264,300, after rescission, for:

... architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission.

The scope of work for grants awarded for the United States-Mexico Border Program must conform with the language contained in the Appropriations Act and the grant file should include documentation that describes the results of the discussions and consultations with the appropriate border commissions. In large part, EPA provides grant funding to the Border Environmental Cooperation Commission (BECC) for the project development assistance program (PDAP) and the North American Development Bank (NADBank) for the Border Environmental Infrastructure Fund (BEIF); in these cases, the subgrants from BECC and NADBank should contain similar documentation.

The Conference Report identifies two projects that are to be funded by monies provided for the United States-Mexico Border Program: "\$4,000,000 is for the El Paso Utilities Board and \$3,000,000 is for the City of Brownsville water supply project." The Brownsville and El Paso projects will be awarded by the EPA Region VI Office and administered within the provisions, including the 45 percent matching requirement, contained in this memorandum.

EPA cost participation on projects funded from the United States-Mexico Border appropriation item (with the exception of the two projects identified above) will be decided on a project-by-project basis. The EPA cost share will depend on a number of factors which have been separately defined within the context of the United States-Mexico Border Program.

On May 12, 1997, the Agency issued a memorandum²⁰ concerning "Program Requirements for Mexican Border Area Projects Funded under the Authority of this Agency's FY 1995, 1996 and 1997 Appropriations Acts." That memorandum also applies to the United States-Mexico Border Area projects funded under the authority of the Agency's FY 2006 Appropriations Act.

Alaska Rural and Native Villages Program

The Agency's FY 2006 Appropriations Act provides \$34,485,100, after rescission, for:

grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages: *Provided, That*, of these funds: (1) the State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) not later than October 1, 2005²¹ the State of

²⁰This document is available on the internet at www.epa.gov/owm/mab/owm0327.pdf.

²¹In order to maintain consistency with past appropriations acts language, the Agency assumes Congress intended to state "October 1,

Alaska shall make awards consistent with the State-wide priority list established in 2004 for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities.

Item (1) above means that the State of Alaska must provide \$11,495,033 as its share for the program. Items (2) and (3) above are self-explanatory and do not require any further explanation.

Additionally, the Alaska Rural and Native Villages Program funds may be used to pay for activities specified in the Safe Drinking Water Act of 1996, (P. L. 104-182, Section 303), specifically: "training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages." These include the Remote Maintenance Worker (RMW) and the Rural Utility Business Advisory (RUBA) programs.

GRANTS MANAGEMENT

Grants awarded under the authority of an Appropriations Act are subject to assistance agreement regulations, OMB cost principles and Agency policies. The grants must be awarded and managed as any other assistance agreement.

The Grants Administration Division (GAD) has developed Grants Policy Issuances (GPIs) and directives to assist project officers and program offices in fulfilling and understanding their responsibilities. Two GPIs that are directly related to the award and management of Special Appropriations Act projects are GPI-03-01-Attachment VI "Policy and Procedures for Funding Assistance Agreements" and GPI-00-05 "Cost Review Guidance."²² A directive outlining roles and responsibilities for all EPA staff with grants management responsibilities is found at <http://intranet.epa.gov/rmpolicy/ads/updates.htm>.

On January 20, 2006, OGD issued Interim Guidance "Assessing Grants Management Performance under the Performance Appraisal and Recognition Systems (PARS)". The OGD Interim Guidance should be used for the development of 2006 PARS performance agreements and for 2006 mid-year and end-of-year performance reviews for project officers and their supervisors/managers.

2006."

²²These GPIs are available on the EPA intranet at <http://intranet.epa.gov/ogd/policy/7.0-GPI-GPI-03-01-5.htm> and <http://intranet.epa.gov/ogd/policy/7.0-GPI-GPI-00-05.htm>

EPA Order 5700.6A1, issued January 8, 2004,²³ streamlines post-award management of assistance agreements and helps ensure effective oversight of recipient performance and management. The Order encompasses both the administrative and programmatic aspects of the Agency's financial assistance programs. It requires each EPA program office providing assistance to develop and carry out a post-award monitoring plan, and conduct baseline monitoring for every award. From the programmatic standpoint, this monitoring should ensure satisfaction of five core areas: (1) compliance with all programmatic terms and conditions, (2) correlation of the recipient's work plan/application and actual progress under the award, (3) availability of funds to complete the project, (4) proper management of and accounting for equipment purchased under the award, and (5) compliance with all statutory and regulatory requirements of the program. If during monitoring it is determined that there is reason to believe that the grantee has committed or commits fraud, waste and/or abuse, then the project officer must contact the Office of the Inspector General. Advanced monitoring activities must be documented in the official grant file and the Grantee Compliance Database. The EPA Order applies to the projects identified in Attachment 1.

A work group consisting of staff from the Regions, the Office of Water, and the Office of Grants and Debarment has been established for the purpose of developing recommendations for alternative reporting procedures that would comply with the requirements of EPA Order 5700.6A1. The scope of the work group will be expanded to include development of recommendations for alternative reporting procedures that will comply with the requirements contained in GPI-00-05 "Cost Review Guidance."

In addition to the general requirements contained in the EPA Order, the following types of activities, which are directly related to construction projects, should be considered in the development of a post-award monitoring plan:

- Review periodic payment requests.
- Compare actual completion percentages and milestones with the approved project schedule
- Compare actual costs incurred with the approved project budget
- Conduct interim inspections.
- Review change orders and claims.
- Review and approve final payment requests.
- Determine that the project is capable of meeting the objectives for which it was planned, designed and built and is operational

Many of these activities can be performed by a State, the Corps of Engineers or a contractor, and as such, are eligible for funding under the three percent set-aside provision.

²³The Order is available on the EPA intranet at http://intranet.epa.gov/rmpolicy/ads/orders/5700_6A1.pdf

PROJECT OFFICER RESPONSIBILITIES

The project officers must review the grant application to determine that:

- the scope of work of the grant is clearly defined;
- the scope of work is in conformance with the project description contained in Attachment 1;
- project schedule and milestones are addressed;
- there is a clearly stated environmental or public health objective;
- the applicant has the programmatic capability to successfully manage the project;
- it is expected that the project will achieve its objective(s); and
- the costs are reasonable, eligible, allowable, and allocable to the project.

Grant applications should be processed in a timely manner, but the applications should be carefully reviewed and the grant awarded only when it is prudent to do so. Additionally, the Regions may impose reasonable requirements through grant conditions in those situations considered necessary.

PROJECT MANAGEMENT RESOURCES

You should invite State agencies to participate as much as possible in the pre-application, application review, and grant administration process.

Legislative language in the Agency's FY 1997 Appropriations Act authorized the use of title II deobligations for State administration of special Appropriations Act *wastewater* projects, coastal/needier cities projects and construction grant projects. The guidance document on the implementation of this provision was issued by the Director, Municipal Support Division, on December 3, 1996.²⁴

The interagency agreement (IAG) with the Corps of Engineers was recently amended to allow the IAG funds to be used for the administration, oversight and management of all special Appropriations Act projects, including those involving drinking water and other water related projects.

States may also use funds awarded under Section 106 of the Clean Water Act (P. L. 92-500) for activities associated with these special projects provided Section 106 program officials agree.

The Agency's FY 2001 Appropriations Act states that "the Administrator may use up to 3 percent of the amount of each project appropriated to administer the management and oversight of construction of such projects through contracts, allocation to the Corps of Engineers, or grants

²⁴This document is available on the internet at www.epa.gov/owm/mab/owm0328.pdf.

to States." A discussion of the three percent set-aside provision is contained on page two of this memorandum.

REVISION OF LANGUAGE CONTAINED IN PREVIOUS APPROPRIATIONS ACTS

The Agency's FY 2006 Appropriations Act did not amend any language from previous appropriations acts. The Act did, however, contain the following language:

"notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection."

The purpose of this language is to allow technical corrections to be made by EPA with Congressional consultation. Approved technical corrections will no longer be made in the following year's appropriations act. It should be noted that this provision allows EPA to make technical corrections for past appropriations acts as well as the current Act. Technical corrections for both the FY 2005 and FY 2006 Acts will be made in accordance with SAAP memo 06-1.

Additionally, as mentioned on pages 1 and 2 of this guidance, two technical corrections to previous appropriations acts were included in the FY 2006 Agriculture Appropriations Act. The language from that Act is as follows:

(4) In title II, under the heading "Environmental Protection Agency, State and Tribal Assistance Grants"—

(A) before the period at the end of the first paragraph, insert "": *Provided further*, That of the funds made available under this heading in division I of Public Law 108-447, \$300,000 is for the Haleyville, Alabama, North Industrial Area Water Storage Tank project: *Provided further*, That the referenced statement of the managers under the heading "Environmental Protection Agency, State and Tribal Assistance Grants" in Public Law 107-73, in reference to item 184, is deemed to be amended by striking "\$2,000,000" and inserting "\$29,945" and by inserting after H. R. 2744—48 "improvements" the following: ", \$500,000 to the City of Sheridan for water system improvements, \$500,000 to Meagher County/Martinsdale Water and Sewer District for Martinsdale Water System Improvements, and \$970,055 to the City of Bozeman for Hyalite Waterline and Intake"; and

(B) in the second paragraph strike "original".

ACTIONS

If you have not already done so, you and your staff should initiate discussions with the appropriate grant applicants to develop a detailed scope of work and to explain the grant application and review process. Additionally, the grant applicant should be provided with a copy of this memorandum prior to grant award to ensure that the applicant is on notice of the applicable requirements before the grant is awarded.

If you have any questions concerning the contents of this memorandum, you may contact me, or have your staff contact George Ames, Chief, State Revolving Fund Branch, Municipal Support Division, at (202) 564-0661.

Attachments

cc: Municipal Construction Program Managers, Regions I – X
Regional NEPA Contacts, Regions I – X
Richard Kuhlman, GAD
Ed Walsh, OCFO
Marcia Combes, Alaska Operations Office, Region X

ATTACHMENT 1

**SPECIAL WATER AND WASTEWATER INFRASTRUCTURE PROJECTS (STAG ACCOUNT)
INCLUDED IN EPA'S FY 2006 APPROPRIATIONS ACT**

Line Item #	State	Region	Earmark Designation	Conference Report Earmark Amount	Final Amount*
41 CT		1	East Hampton, CT Municipal Water System Improvements	\$1,200,000	\$1,148,900
			Infrastructure upgrades at water pollution control plant in the Town of		
42 CT		1	Plainville, Connecticut	\$500,000	\$477,900
			Stamford, CT Mill River Stormwater Management Infrastructure		
43 CT		1	Improvements	\$1,000,000	\$955,600
			Combined sewer overflow abatement project in Bristol County,		
90 MA		1	Massachusetts	\$1,000,000	\$955,600
			Hartford, CT; Springfield, Chicopee, Holyoke, Ludlow, South Hadley, MA		
91 MA		1	Connecticut River Clean-up	\$2,000,000	\$1,911,500
100 ME		1	Wastewater treatment project in the Town of Machias, Maine	\$500,000	\$477,900
			Waterline extension and water system upgrade project in the Town of		
101 ME		1	Dover-Foxcroft, Maine	\$472,000	\$451,100
			Combined sewer overflow separation project in the City of Manchester,		
161 NH		1	New Hampshire	\$500,000	\$477,900
162 NH		1	Exeter, NH Water and Wastewater Infrastructure Improvements	\$1,000,000	\$955,600
163 NH		1	Waterworks Project in the City of Berlin, New Hampshire	\$500,000	\$478,200
213 RI		1	Cumberland, RI Cumberland Drinking Water Infrastructure Improvements	\$500,000	\$477,900
214 RI		1	New water storage tank in the Town of Westerly, Rhode Island	\$875,000	\$836,300
			Water infrastructure improvements in the City of Cumberland, Rhode		
215 RI		1	Island	\$500,000	\$477,900
			Water infrastructure improvements in the City of North Smithfield, Rhode		
216 RI		1	Island	\$200,000	\$191,100
243 VT		1	Wastewater treatment project in the Town of Pownal, Vermont	\$1,000,000	\$955,600
244 VT		1	Water treatment projects in the Town of Waitsfield, Vermont	\$1,000,000	\$955,600
		1 Total		\$12,747,000	\$12,182,600
164 NJ			\$250,000 for the Rahway City Sanitary Sewer I&I, and \$250,000 for the		
		2	Rahway Valley Sewerage Authority	\$500,000	\$477,900
			Bergen County, NJ Bergen County Wastewater Infrastructure		
165 NJ		2	Improvements	\$1,000,000	\$955,600
			Passaic Valley, NJ Passaic Valley Sewerage Commission Combined		
166 NJ		2	Sewage Overflow Project	\$2,500,000	\$2,389,400
			Stormwater infrastructure improvements at Farnham Park in the City of		
167 NJ		2	Camden, New Jersey	\$500,000	\$477,900
			Ballston Spa, NY Saratoga County Water Treatment and Transmission		
179 NY		2	Facilities	\$3,000,000	\$2,867,100
			Cayuga County, NY Village of Fairhaven Wastewater Infrastructure		
180 NY		2	Improvements	\$750,000	\$716,800
181 NY		2	Coming, NY Water and Wastewater Infrastructure Improvements	\$750,000	\$716,800
			Dunkirk, NY Chadwick Bay West End Water and Wastewater		
182 NY		2	Infrastructure Improvements	\$400,000	\$382,300
			Monroe County Water Authority Eastside Water Treatment Project Water		
183 NY		2	and Wastewater Infrastructure Improvements	\$2,000,000	\$1,911,500
184 NY		2	ML Pleasant, NY Stormwater Infrastructure Improvements	\$138,000	\$131,900
			Saugerties, NY Saugerties Water and Wastewater Infrastructure		
185 NY		2	Improvements	\$2,100,000	\$2,007,000
186 NY		2	Stormwater restoration project in the Town of North Hempstead, New York	\$1,000,000	\$955,600
187 NY		2	Water and sewer extension project in the Town of Bethel, New York	\$1,000,000	\$955,600
		2 Total		\$15,638,000	\$14,945,400
44 DE		3	Combined sewer overflow program in the City of Wilmington, Delaware	\$1,000,000	\$955,600
92 MD		3	Anacostia Sanitary Sewer Overflow	\$500,000	\$477,900
93 MD		3	Combined sewer overflow project in the City of Cumberland, Maryland	\$350,000	\$334,500
94 MD		3	Combined sewer overflow project in the City of Frostburg, Maryland	\$500,000	\$477,900
95 MD		3	Combined sewer overflow project in the City of Westport, Maryland	\$500,000	\$477,900

96 MD	Greenmount Interceptor sewer improvement project in the City of Baltimore, Maryland	\$1,000,000	\$955,600
97 MD	Port Tobacco, MD Port Tobacco Watershed Water and Wastewater Infrastructure Improvements	\$200,000	\$191,100
98 MD	3 Sewer line repair project in the City of Emmitsburg, Maryland	\$150,000	\$143,400
99 MD	3 Wastewater lagoon repair in the City of Funkstown, Maryland	\$150,000	\$143,400
198 PA	Allegheny County Sanitary Authority for the Three Rivers Wet Weather program in Allegheny County, Pennsylvania	\$1,750,000	\$1,672,500
199 PA	3 Ambridge, PA Drinking Water Infrastructure Improvements	\$92,000	\$88,000
200 PA	Central sewer collection and treatment replacement in Tulpehocken Township, Pennsylvania	\$250,000	\$238,900
201 PA	Combined sewer overflow and flood protection project in the City of Plum Creek and Allegheny County, Pennsylvania	\$800,000	\$764,600
202 PA	3 Interceptor improvements project in Penn Hills, Pennsylvania	\$200,000	\$191,100
203 PA	3 Kingston, PA Luzerne County Combined Sewer Overflow	\$1,000,000	\$955,600
204 PA	3 Pen Argyl Borough, PA Wastewater Treatment Plant	\$100,000	\$95,500
205 PA	Philadelphia, PA Southeastern Pennsylvania Waterways Restoration		
	3 Stormwater Infrastructure Improvements	\$695,000	\$664,200
206 PA	3 Pleasantville, PA Borough of Pleasantville Water System Improvements	\$300,000	\$286,700
207 PA	3 Public sewer service extensions in Menallen Township, Pennsylvania	\$250,000	\$238,900
208 PA	3 Sewer improvement project in the Borough of Archbald, Pennsylvania	\$750,000	\$716,800
209 PA	3 Storm sewer pipe construction in Millcreek Township, Pennsylvania	\$250,000	\$238,900
210 PA	Stormwater infrastructure improvements project in the Borough of Pottstown, Pennsylvania	\$250,000	\$238,900
211 PA	3 Tarentum, PA Bull Creek Flood Protection Plan	\$1,000,000	\$955,600
212 PA	3 Water infrastructure improvements in the City of Lancaster, Pennsylvania	\$500,000	\$477,900
149 NC/VA	Sparta, NC & Independence, VA Virginia Carolina Water Authority Water		
237 VA	3 and Wastewater Infrastructure Improvements	\$1,000,000	\$955,600
	3 Alexandria, VA Four Mile Run Restoration	\$1,500,000	\$1,433,600
238 VA	Construction of wastewater treatment facilities expansion in Lee County, Virginia	\$500,000	\$477,900
239 VA	3 Hanover County, VA Water and Wastewater Infrastructure Improvements	\$682,000	\$651,800
240 VA	Henry County, VA Henry County Water System Connector to Pittsylvania County	\$110,000	\$105,100
241 VA	National Capital Region, VA, MD, DC Real-Time Drinking Water Distribution Security Monitoring	\$521,000	\$497,900
242 VA	Wastewater treatment infrastructure improvements project in the Town of Onancock, Virginia	\$500,000	\$477,900
253 WV	3 Beckley, WV Piney Creek Interceptor Sewer Replacement Project	\$1,000,000	\$955,600
254 WV	3 Canaan Valley, WV Canaan Valley Decentralized Wastewater System	\$1,000,000	\$955,600
255 WV	3 Mineral County, WV Lakewood Wastewater Treatment Facility	\$220,000	\$210,300
256 WV	Spencer, WV Spencer Water and Wastewater Infrastructure Improvements	\$1,000,000	\$955,600
3 Total		\$20,570,000	\$19,658,300
3 AL	4 Coosa Valley Water Supply District surface water project in Alabama	\$800,000	\$764,600
4 AL	4 Haleyville, AL North Industrial Area Water Storage Tank	\$50,000	\$47,800
5 AL	4 Heflin, AL Industrial Site Water and Sewer Project	\$150,000	\$143,400
6 AL	4 Huntsville, AL City of Huntsville Water System Improvements	\$1,000,000	\$955,600
7 AL	4 Sewer improvement project in the City of York, Alabama	\$700,000	\$669,000
8 AL	4 Twin, AL Twin Water Authority Water Systems Renovation	\$250,000	\$238,900
9 AL	4 Water main extension improvements project in Alexander City, Alabama	\$500,000	\$477,900
45 FL	4 Citrus County, FL Homosassa Wastewater Collection System Project	\$750,000	\$716,800
46 FL	4 Coral Springs, FL Water and Wastewater Infrastructure Improvements	\$700,000	\$669,000
47 FL	4 East Central, FL East-Central Florida Integrated Water Resources	\$1,500,000	\$1,433,600
48 FL	Emerald Coast treatment plant replacement project for the Northwest Florida Water Management District	\$800,000	\$764,600

49 FL	Jacksonville Beach, FL North 2nd Street Drainage Collection and 4 Treatment System	\$1,000,000	\$955,600
50 FL	4 Keaton Beach, FL Taylor Coastal Wastewater Project	\$750,000	\$716,800
51 FL	Lake Region water treatment plant improvements for the South Florida 4 Water Management District	\$300,000	\$286,700
52 FL	4 North Port, FL Water and Wastewater Infrastructure Improvements	\$500,000	\$477,900
53 FL	4 Pinellas Park, FL On-site Sewerage system elimination	\$1,787,000	\$1,707,800
54 GA	4 Columbus, GA—Ox Bow Meadows Wastewater Improvements	\$1,000,000	\$955,600
55 GA	4 Moultrie, GA City of Moultrie Wastewater Treatment Plant Rehabilitation	\$350,000	\$334,500
56 GA	West Area Combined Sewer Overflow Tunnel in the City of Atlanta, 4 Georgia	\$500,000	\$477,900
82 KY	City of Columbia, Kentucky, and the Adair County Regional Water 4 Treatment Plant	\$500,000	\$477,900
83 KY	Louisville, KY Louisville Olmsted Parks Conservancy Watershed 4 Restoration	\$1,000,000	\$955,600
84 KY	4 Somerset, KY Somerset Wastewater Treatment Plant	\$3,200,000	\$3,058,400
85 KY	Wastewater sewer line extension project in the City of South 4 Campbellsville, Kentucky	\$1,000,000	\$955,600
86 KY	4 Wastewater treatment plant expansion project in Culver City, Kentucky	\$500,000	\$477,900
119 MS	Drinking water and wastewater treatment improvements project in the 4 Chipley area in the City of Pascagoula, Mississippi	\$747,000	\$713,900
120 MS	4 Regional wastewater program in DeSoto County, Mississippi	\$500,000	\$477,900
121 MS	Wastewater infrastructure evaluation and repair project in the City of 4 Ridgeland, Mississippi	\$500,000	\$477,900
122 MS	Wastewater system rehabilitation for the West Rankin Water Authority in 4 Mississippi	\$2,000,000	\$1,911,500
123 MS	Wastewater treatment facilities improvements in the City of Pontotoc, 4 Mississippi	\$1,200,000	\$1,146,900
124 MS	Wastewater treatment improvements in the City of Brookhaven, 4 Mississippi	\$1,000,000	\$955,600
125 MS	4 Wastewater treatment improvements in the City of Flowood, Mississippi	\$500,000	\$477,900
126 MS	4 Wastewater treatment improvements project in Wheeler, Mississippi	\$750,000	\$716,800
127 MS	4 Water and sewer infrastructure project in Forrest County, Mississippi	\$700,000	\$669,000
128 MS	4 Water and sewer infrastructure project in the City of Biloxi, Mississippi	\$1,000,000	\$955,600
129 MS	4 Water and sewer infrastructure project in the Town of McLain, Mississippi	\$250,000	\$238,900
138 NC	4 Anson County, NC Raw Water Intake Project	\$1,000,000	\$955,600
139 NC	Brightwater, NC Water and Wastewater Infrastructure Improvements 4 (water distribution system) (grantee is City of Hendersonville)	\$587,000	\$561,000
140 NC	4 Cedar Grove, NC Cedar Grove Waterline Project	\$253,000	\$241,800
141 NC	4 Charlotte, NC Providence Road Water Line project	\$1,000,000	\$955,600
142 NC	Haywood County, NC Water and Wastewater Infrastructure Improvements 4 (Town of Clyde 500k, Canton 500k)	\$1,000,000	\$955,600
143 NC	4 Kannapolis, NC Groundwater Storage Tank & Fire Pump System	\$500,000	\$477,900
144 NC	Mitchell County, NC Ledger Community Water and Wastewater 4 Infrastructure Improvements	\$500,000	\$477,900
145 NC	Moore County, NC North West Moore Water District Water and 4 Wastewater Infrastructure Improvements	\$500,000	\$477,900
146 NC	Sylva, NC Jackson County Water and Wastewater Infrastructure 4 Improvements	\$500,000	\$477,900
147 NC	Wake County, NC Jordan Lake Water and Wastewater Infrastructure 4 Improvements	\$1,500,000	\$1,433,600
148 NC	4 Wilson, NC Wilson Wastewater Infrastructure Program	\$1,000,000	\$955,600
217 SC	Construction of the Maple Creek Water Treatment Plant for the Greer 4 Commission of Public Works in Greer, South Carolina	\$500,000	\$477,900
218 SC	4 Myrtle Beach, SC Storm Water Management System	\$815,000	\$587,800
219 SC	4 Olar, SC Olar and Govan Regional Water System	\$733,000	\$700,500
222 TN	East Tennessee Development District Water and Wastewater Infrastructure Improvements (Jefferson City 700k, Norris 300k, 4 Cumberland Gap 250k, Jefferson County 300k)	\$1,550,000	\$1,481,300
223 TN	4 Lake Tansi Sewer Project in Cumberland County, Tennessee	\$1,000,000	\$955,600

224 TN	Southeast Tennessee Development District Water and Wastewater Infrastructure Improvements (Cleveland 550k, Ducktown 150k, Spring City 4 250k)	\$950,000	\$907,900
225 TN	4 Watauga River Regional Water Authority in Carter County, Tennessee	\$1,000,000	\$955,600
228 TN	West End water and wastewater infrastructure project in Oak Ridge, 4 Tennessee	\$1,000,000	\$955,600
4 Total		\$44,422,000	\$42,453,900
65 IL	5 Big Rock, IL Big Rock South Side Drainage System	\$175,000	\$167,300
66 IL	5 Calumet City, IL Water and Sewer Improvements	\$275,000	\$262,800
67 IL	Construction of a wastewater treatment facility in the Village of Pecatonica, 5 Illinois	\$250,000	\$238,900
68 IL	5 Drinking water improvements in the City of Wauconda, Illinois	\$750,000	\$716,800
69 IL	Drinking water infrastructure improvements in the City of Springfield, 5 Illinois	\$250,000	\$238,900
70 IL	5 Hampshire, IL Water and Wastewater System Improvements	\$600,000	\$573,400
71 IL	5 Hinckley, IL Water Main Replacement	\$418,000	\$399,500
72 IL	Pleasant Plains, IL New Sanitary Sewer Collection System and 5 Wastewater Treatment Facilities	\$765,000	\$731,200
73 IL	Sewer Improvement Consortium of Lake Bluff, Highwood, Highland Park 5 and Lake Forest, Illinois	\$500,000	\$477,900
74 IL	5 Water system upgrades in the Village of Port Byron, Illinois	\$250,000	\$238,900
75 IN	Construction of a wastewater treatment facility in Morgan County, Indiana 5 for the Town of Waverly	\$750,000	\$716,800
76 IN	5 Sandborn, IN Water and Wastewater Infrastructure Improvements	\$500,000	\$477,800
77 IN	5 Valparaiso, IN Valparaiso Sewer Infrastructure Improvements	\$825,000	\$788,500
78 IN	5 Water infrastructure upgrades in the City of Upland, Indiana	\$1,700,000	\$1,624,800
102 MI	Combined sewer overflow control program for the City of Port Huron, 5 Michigan	\$1,000,000	\$955,600
103 MI	Detroit, MI Far Eastside Water and Wastewater Infrastructure 5 Improvement Project	\$1,500,000	\$1,433,600
104 MI	5 North-East Relief Sewer (NERS) project in Genesee County, Michigan	\$250,000	\$238,900
105 MI	Oakland County, MI Evergreen-Farmington Sanitary Sewer Overflow 5 Control Demonstration Project	\$2,000,000	\$1,911,500
106 MI	5 Public sewer system improvements in the City of Northport, Michigan	\$250,000	\$238,900
107 MI	Regional wastewater treatment system improvements in Eastern Calhoun 5 County, Michigan	\$225,000	\$215,000
108 MI	Rouge River CSO, SSO Wet Weather demonstration project in Wayne 5 County, Michigan	\$500,000	\$477,900
109 MI	5 Sewage treatment program in Traverse City, Michigan	\$150,000	\$143,400
110 MI	5 Sewer plant improvements in the City of Saginaw, Michigan	\$250,000	\$238,900
111 MN	Construction of a new wastewater treatment plant in the City of Willmar, 5 Minnesota	\$500,000	\$477,800
112 MN	5 Minneapolis, MN Combined Sewer Overflow Program	\$1,500,000	\$1,433,600
113 MN	5 Sanitary management district of Crow Wing County, Minnesota	\$500,000	\$477,900
114 MN	5 Western Lake Superior Sanitary District in the City of Duluth, Minnesota	\$500,000	\$477,900
188 OH	Canal Winchester, OH Village of Canal Winchester Water Treatment Plant 5 Expansion	\$500,000	\$477,900
189 OH	Construction of a sewer collection and treatment system in the Village of 5 Higgsport, Ohio	\$850,000	\$812,400
190 OH	5 Drinking water line replacement in Muskingum County, Ohio	\$200,000	\$191,100
191 OH	5 Galion, OH Wastewater Infrastructure Improvements	\$1,000,000	\$955,600
192 OH	Greene Community in Greene County, Ohio for wastewater and drinking 5 water projects	\$150,000	\$143,400
193 OH	Wastewater collection and treatment system in the City of Elmira, Ohio, 5 and the City of Burlington, Ohio	\$800,000	\$764,600
194 OH	5 Yellow Springs, OH Morris Bean Sanitary Sewer Connection Project	\$125,000	\$119,500
248 WI	Metropolitan sewage district interceptor system program in the City of 5 Milwaukee, Wisconsin	\$800,000	\$764,600
249 WI	Park Falls, WI Water and Wastewater Infrastructure Improvements (wells, 5 pumphouse, water main)	\$1,000,000	\$955,800
250 WI	Pittsville, WI Wastewater Treatment Plant/Water and Wastewater 5 Infrastructure Improvements	\$1,900,000	\$1,815,900

251 WI	Radionuclide standard drinking water project in the City of Waukesha, Wisconsin	\$800,000	\$764,600
252 WI	Rhineland, WI Water and Wastewater Infrastructure Improvements (well, pump house, water main, storm sewer)	\$1,000,000	\$955,700
5 Total		\$26,258,000	\$25,095,600
10 AR	Improvements to the Little Maumelle water treatment plant in the City of Little Rock, Arkansas	\$500,000	\$477,900
11 AR	Regional wastewater treatment improvements for the City of Fayetteville, Arkansas	\$500,000	\$477,900
12 AR	St. Charles, AR St. Charles Drainage Planning and Improvements	\$50,000	\$47,800
87 LA	Shreveport Municipal Water Distribution system backflow prevention project in Shreveport, Louisiana	\$400,000	\$382,300
88 LA	South Lake Charles, LA Wastewater Treatment Plant	\$1,000,000	\$955,600
89 LA	Tioga, LA Water Works District No. 3 of Rapides Parish—Drinking Water Extension	\$1,500,000	\$1,433,600
168 NM	Construction of a wastewater treatment system in Kirtland, New Mexico	\$1,000,000	\$955,600
169 NM	Village of Tijeras, NM Phase III Water System	\$952,000	\$909,900
170 NM	Wastewater and drinking water improvements project for the Albuquerque/Bernalillo Water Utility Authority in New Mexico	\$1,000,000	\$955,600
171 NM	Wastewater collection, treatment, and disposal system in the Town of Edgewood, New Mexico	\$1,000,000	\$955,600
172 NM	Wastewater project in the City of Belen, New Mexico	\$1,000,000	\$955,600
173 NM	Water project in the City of Las Cruces, New Mexico	\$1,000,000	\$955,600
195 OK	Nicomma Park, OK Nicomma Park Water Line	\$200,000	\$191,100
196 OK	Wewoka, OK City of Wewoka Well Water Access	\$275,000	\$262,800
227 TX	Fresno/Arcola, TX Fort Bend County Water and Wastewater Infrastructure Improvements	\$2,000,000	\$1,911,500
228 TX	Liberty Hill, TX Liberty Hill Wastewater Treatment Facilities and Collection System	\$365,000	\$348,900
229 TX	Lorena, TX City of Lorena Wastewater Treatment Plant	\$350,000	\$334,500
230 TX	Richmond/Rosenberg, TX West Fort Bend County Regional Water System	\$570,000	\$544,800
231 TX	Sewer overflow prevention project in the City of Austin, Texas	\$500,000	\$477,900
6 Total		\$14,162,000	\$13,534,500
58 IA	Combined sewer separation project in the City of Ottumwa, Iowa	\$800,000	\$764,600
59 IA	Construction of a wastewater treatment plant in Sioux City, Iowa	\$500,000	\$477,900
60 IA	Mason City, IA Sanitary Sewer Interceptor Project	\$1,000,000	\$955,600
61 IA	Sewer separation project in the City of Davenport, Iowa	\$800,000	\$764,600
79 KS	New drinking water transmission line in the City of Medicine Lodge, Kansas	\$500,000	\$477,900
80 KS	Water infrastructure improvements in Johnson County, Kansas	\$500,000	\$477,900
81 KS	Rose Hill, KS City of Rose Hill Sewer System Improvements	\$2,500,000	\$2,389,400
115 MO	Expansion of the Clarence Cannon Wholesale Water Commission treatment Plant in Missouri	\$500,000	\$477,900
116 MO	Springfield, MO Wastewater System Improvements	\$1,200,000	\$1,146,900
117 MO	St. Louis, Missouri Combined Sewer Overflow Project	\$1,000,000	\$955,600
118 MO	Wastewater improvements project in the City of Seneca, Missouri	\$850,000	\$812,400
159 NE	Combined sewer separation projects in the City of Omaha, Nebraska	\$500,000	\$477,900
160 NE	Water and wastewater infrastructure improvements in the City of Lincoln, Nebraska	\$500,000	\$477,900
7 Total		\$11,150,000	\$10,656,500
35 CO	Drinking water project in the Town of Walden, Colorado	\$800,000	\$764,600
36 CO	Stormwater improvement program in Jefferson County, Colorado	\$500,000	\$477,900
37 CO	Wastewater facility upgrades in Yuma, Colorado	\$100,000	\$95,500
38 CO	Wastewater treatment facility improvements project in Brush, Colorado	\$100,000	\$95,500
39 CO	Wastewater treatment plant improvements in the Cities of Englewood and Littleton, Colorado	\$500,000	\$477,900
40 CO	Water treatment facility in the City of Alamosa, Colorado	\$650,000	\$621,200
130 MT	Drinking water system upgrades in the City of Belgrade, Montana	\$750,000	\$716,800
131 MT	Havre, MT Rocky Boy's/North Central Montana Regional Water System	\$1,000,000	\$955,600

132 MT	Wastewater treatment improvements in the Pablo/Lake County Water and Sewer District, Montana	\$500,000	\$477,900
133 MT	Wastewater treatment improvements in the Seeley Lake Sewer District, Montana.	\$1,000,000	\$955,600
134 MT	Wastewater treatment improvements in the Town of St. Ignatius, Montana	\$750,000	\$716,800
135 MT	Wastewater treatment improvements in the Wisdom Sewer District, Montana	\$500,000	\$477,900
136 MT	Wastewater treatment plant improvement project in the City of Bozeman, Montana	\$170,000	\$162,500
137 MT	Water system infrastructure improvements in the City of Helena, Montana	\$2,250,000	\$2,150,200
150 ND	Drinking water distribution improvements for the North Central Rural Water Consortium, North Dakota	\$250,000	\$238,900
151 ND	Regional drinking water infrastructure expansion for the Towns of Hankinson, Wyndemere, LaMoure, and Oakes, North Dakota (Southeast Area)	\$300,000	\$286,700
152 ND	Regional water treatment facility improvements in the City of Washburn, North Dakota	\$700,000	\$669,000
153 ND	Regional water treatment facility infrastructure in the City of Riverdale, North Dakota	\$500,000	\$477,900
154 ND	Rural water district infrastructure improvements in Walsh County, North Dakota	\$250,000	\$238,900
155 ND	Wastewater treatment facility upgrades in the City of Lakota, North Dakota	\$300,000	\$286,700
156 ND	Water and sewer improvement projects in the City of Crosby, North Dakota	\$250,000	\$239,000
157 ND	Water infrastructure improvements in the City of Devils Lake, North Dakota	\$500,000	\$477,900
158 ND	Water treatment plant regulatory improvements in the City of Grafton, North Dakota	\$725,000	\$692,900
220 SD	Water and wastewater master plan development in Rapid City, South Dakota	\$800,000	\$764,600
221 SD	Water infrastructure improvements in the City of Springfield, South Dakota	\$180,000	\$172,000
232 UT	Arsenic and perchlorate removal project in Magna, Utah	\$700,000	\$669,000
233 UT	Construction of a drinking water nitrate remediation plant for Centerfield, Utah, and Mayfield, Utah	\$1,500,000	\$1,433,600
234 UT	Drinking water and stormwater infrastructure improvements in Sandy City, Utah	\$1,000,000	\$955,800
235 UT	Wastewater treatment plant in Eagle Mountain, Utah	\$500,000	\$477,900
236 UT	Water infrastructure improvements for Judge Tunnel in Park City, Utah	\$300,000	\$286,800
257 WY	Wastewater treatment plant improvements project in the City of Cheyenne, Wyoming	\$1,000,000	\$955,600
8 Total		\$19,325,000	\$18,469,100
13 AZ	Avondale, AZ Avondale Wastewater Treatment Facility Expansion	\$1,500,000	\$1,433,600
14 AZ	Safford, AZ City of Safford Waste Treatment Plant Debt Repayment to Arizona Infrastructure Finance Authority	\$800,000	\$764,600
15 AZ	Tucson, AZ Tucson Water Security Demonstration Project	\$450,000	\$430,200
16 AZ	Wastewater treatment plant in Lake Havasu City, Arizona	\$1,500,000	\$1,433,600
17 CA	Arcadia, Sierra Madre, CA Joint Water Infrastructure	\$2,500,000	\$2,389,400
18 CA	Bakersfield, CA Rexland Acres Wastewater Treatment Project	\$1,500,000	\$1,433,600
19 CA	Beaumont, CA Drinking Water Infrastructure Improvement	\$378,000	\$361,300
20 CA	Cathedral City, CA Water and Wastewater Infrastructure Improvements	\$500,000	\$477,900
21 CA	Colfax, CA Colfax Wastewater Treatment Plant Improvement	\$600,000	\$573,400
22 CA	Georgetown, CA Greenwood Lake Water Treatment Facility	\$1,500,000	\$1,433,600
23 CA	Lake Arrowhead, CA Lake Arrowhead Groundwater Development	\$250,000	\$238,900
24 CA	Martin Slough interceptor project in the City of Eureka, California	\$375,000	\$358,400
25 CA	Monterey, CA Monterey County Development and Implementation of Water Management Plan	\$750,000	\$716,800
26 CA	Perchlorate treatment program in the City of Pasadena, California	\$375,000	\$358,400
27 CA	Riverside, CA Water and Wastewater Infrastructure Improvements	\$500,000	\$477,900
28 CA	San Bernardino, CA Lakes and Streams Project	\$1,000,000	\$955,600
29 CA	Santa Jose, CA Perchlorate Assistance Santa Clara Valley Water District	\$2,000,000	\$1,911,500

30 CA	9 Solana Beach, CA Solana Beach Wastewater System Improvements	\$1,000,000	\$955,600
	Southern California Water and Wastewater Infrastructure Improvements		
	(Mission Springs Water District 1.6M, Brinton Reservoir (Banning) 1M,		
	Bighorn-Desert View Water Agency 500K, SAWPA SARI 450K, Yucca		
31 CA	9 Valley 350K, Dunlap 100K).	\$4,000,000	\$3,822,900
32 CA	9 Wastewater treatment plant expansion in Crescent City, California	\$375,000	\$358,400
	Water and wastewater infrastructure improvements project for the San		
33 CA	9 Francisco Public Utility Commission in California	\$500,000	\$477,900
34 CA	9 Water facility project in the City of Santa Paula, California	\$375,000	\$358,400
	Statewide cesspool replacement in the following counties, \$500,000 for the		
	County of Hawaii; \$400,000 for the County of Kauai; and, \$100,000 for the		
57 HI	9 City and County of Hawaii	\$1,000,000	\$955,700
174 NV	9 Henderson, NV Southwest Wastewater Treatment Plant	\$1,000,000	\$955,600
	Searchlight sewer system upgrades/Clark County Reclamation District		
175 NV	9 improvement project in Nevada	\$650,000	\$621,200
	Water and wastewater infrastructure improvements for the Marlette/Hobart		
176 NV	9 water system in Carson City, Nevada	\$50,000	\$47,800
	Water infrastructure improvements for the North Lemmon Valley Artificial		
177 NV	9 Recharge Project in North Lemmon Valley, Nevada	\$150,000	\$143,400
178 NV	9 Water infrastructure improvements in Douglas County, Nevada	\$400,000	\$382,300
	9 Total	\$25,978,000	\$24,827,900
1 AK	10 Water and sewer project in the City of Craig, Alaska	\$250,000	\$239,000
2 AK	10 Water and sewer project in Unalaska, Alaska	\$750,000	\$716,800
	Construction of a wastewater collection and treatment facility in Valley		
62 ID	10 County, Idaho	\$600,000	\$573,400
63 ID	10 Wastewater treatment project in the City of Twin Falls, Idaho	\$500,000	\$477,900
64 ID	10 Water system infrastructure improvements in the City of Castleford, Idaho	\$400,000	\$382,200
197 OR	10 Sanitary district facility upgrades in the City of Winchester Bay, Oregon	\$750,000	\$716,800
	Carnation, WA City of Carnation Sewer Collection and Conveyance		
245 WA	10 System	\$1,000,000	\$955,600
246 WA	10 Groundwater remediation project in North Clark County, Washington	\$500,000	\$477,900
	Hood Canal, WA Lower Hood Canal Wastewater Collection and Treatment		
247 WA	10 System	\$5,000,000	\$4,778,600
	10 Total	\$9,750,000	\$9,318,200
	Grand Total	\$200,000,000	\$191,142,000

*Final Amount calculated as: Conference Report Earmark Amount less .0476% rescission less 1% rescission less 3% administrative set-aside, rounded to nearest \$100.

ATTACHMENT 2

DELEGATIONS MANUAL

1200 TN 516
09/28/2000

GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS

102. Grants and Cooperative Agreements for Water Infrastructure Projects or Other Water Resource Projects from Funds Appropriated for the State and Tribal Assistance Grant Account or the Environmental Programs and Management Account.

AUTHORITY. To approve and administer grants and cooperative agreements for water infrastructure projects or other water resource projects from funds appropriated for the State and Tribal Assistance Grant Account or the Environmental Programs and Management Account or any successor accounts, including a project authorized by Section 510 of the Water Quality Act of 1987, P.L. 100-4, 101 Stat. 780, EPA's FY 1991 Appropriations Act (P.L. 101-507), and any subsequent public law, and to perform other activities necessary for the effective administration of those grants and cooperative agreements.

2. **TO WHOM DELEGATED.** The Assistant Administrator for Water and Regional Administrators.

3. **REDELEGATION AUTHORITY.**

- a. The authority granted to the Regional Administrator may be redelegated to the Division Director level, or equivalent, and no further.
- b. The authority granted to the Assistant Administrator for Water may be redelegated to the Office Director level, or equivalent, and no further.

4. **LIMITATIONS.**

- a. Except as provided in c. below, this delegation applies only to those grants and cooperative agreements for which authority is provided exclusively in a statute other than the Clean Water Act or the Safe Drinking Water Act (e.g., a statute making appropriations to the State and Tribal Assistance Grant Account or the Environmental Programs and Management Account or any successor accounts).
- b. Awards are subject to guidance issued by the Office of the Comptroller or by the Office of Water or its Component Offices.
- c. This delegation also applies to grants and cooperative agreements for projects described in, and pursuant to the 1987 Water Quality Act Section 510, as amended by EPA's 1991 Appropriations Act (P.L. 101-507), as amended.

5. ADDITIONAL REFERENCES

- a. Authority to execute (sign) these financial assistance agreements is delegated to the Regional Administrators under Delegation 1-14, Assistance Agreements;
- b. 40 CFR Part 31;
- c. 40 CFR Part 40 for Demonstration grants;
- d. 40 CFR Part 35, Subpart K, and
- e. EPA Assistance Administration Manual

ATTACHMENT 3

**LISTING OF CROSS-CUTTING
FEDERAL AUTHORITIES
FOR SPECIAL APPROPRIATIONS ACT PROJECTS**

Environmental Authorities

- Archeological and Historic Preservation Act, Pub. L. 93-291, as amended
- Clean Air Act, Pub. L. 95-95, as amended
- Clean Water Act, Titles III, IV and V, Pub. L. 92-500, as amended
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Environmental Justice, Executive Order 12898
- Flood Plain Management, Executive Order 11988 as amended by Executive Order 12148
- Protection of Wetlands, Executive Order 11990 as amended by Executive Order 12608
- Farmland Protection Policy Act, Pub. L. 97-98
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265
- National Environmental Policy Act, Pub. L. 91-190
- National Historic Preservation Act, Pub. L. 89-655, as amended
- Safe Drinking Water Act, Pub. L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-54, as amended

Economic and Miscellaneous Authorities

- Debarment and Suspension, Executive Order 12549

- Demonstration Cities and Metropolitan Development Act, Pub. L. 89 -754, as amended, and Executive Order 12372
- Drug-Free Workplace Act, Pub. L. 100-690
- Government Neutrality Toward Contractor's Labor Relations, Executive Order 13202 as amended by Executive Order 13208
- New Restrictions on Lobbying, Section 319 of Pub. L. 101-121
- Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, and Executive Order 11738.
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended

Civil Rights, Nondiscrimination, Equal Employment Opportunity Authorities

- Age Discrimination Act, Pub. L. 94-135
- Equal Employment Opportunity, Executive Order 11246
- Section 13 of the Clean Water Act, Pub. L. 92-500
- Section 504 of the Rehabilitation Act, Pub. L. 93-112 supplemented by Executive Orders 11914 and 11250
- Title VI of the Civil Rights Act, Pub. L. 88-352

Disadvantaged Business Enterprise Authorities

- EPA's FY 1993 Appropriations Act, Pub. L. 102-389
- Section 129 of the Small Business Administration Reauthorization and Amendment Act, Pub. L. 100-590
- Small, Minority and Women Owned Business Enterprises, Executive Orders 11625, 12138 and 12432

ATTACHMENT 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 20 1995

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: NEPA Guidance for Special Wastewater Treatment Projects
in the FY95 Appropriation Bill

FROM: Richard E. Sanderson *Richard E. Sanderson*
Director
Office of Federal Activities (2252)

TO: NEPA Coordinators

The purpose of this memorandum is to provide guidance on the requirements for compliance with the National Environmental Policy Act (NEPA) for special projects authorized for EPA grant funding by the FY95 Appropriations Act (Act). The Act appropriated "no-year" money to fund special wastewater treatment projects identified by Congress. Each region has projects on this list. The list is included in the attached copy of the guidance memorandum prepared by the Office of Water Management (OWM).

The OWM memorandum indicates that NEPA applies to all of these projects except the three to be funded as Clean Water Act (CWA) section 104(b)(3) demonstration projects. These three are exempted from NEPA under the CWA section 511(c). The Office of General Counsel (OGC) has prepared an "Analysis of NEPA applicability to special grants authorized by FY 1995 Appropriations Act." This analysis is also attached.

EPA Guidance to Regional NEPA Coordinators

An independent EPA NEPA analysis for the non-demonstration projects is required. In addition, other cross-cutting federal statutes, such as the Endangered Species Act and the National Historic Preservation Act, also apply to these projects. The Council on Environmental Quality's (CEQ) NEPA regulations do not allow EPA to adopt a state analysis. However, the NEPA regulations do require agencies to "cooperate with State and local agencies to the fullest extent possible to reduce



duplication between NEPA and State and local requirements... (40 CFR 1506.2). There are several ways the regions can use the existing information and assessments for these projects as summarized below and as discussed in greater detail in the attached OGC analysis. In all cases, EPA must independently evaluate the state documentation and review process and is responsible for the accuracy of the NEPA documentation and the adequacy of the process (40 CFR 1506.5).

- Where states have performed environmental reviews under NEPA-like statutes or pursuant to State Revolving Fund regulations, EPA can incorporate, but not simply adopt, the state analysis into the Agency's NEPA analysis.
 - Where state reviews have found no significant impacts and EPA approves of that finding and the state process, EPA may issue an environmental assessment (EA) summarizing and referencing the state analysis and an accompanying Finding of No Significant Impact (FONSI).
 - Where state reviews have found significant impacts or EPA independently determines that there are significant impacts, EPA must issue a notice of intent and proceed with an environmental impact statement (EIS) and record of decision (ROD) in accordance with the Agency's regulations at 40 CFR Part 6.
 - Where construction of projects is complete or nearly completed, a NEPA analysis will not have to be done.
 - Where construction has started and the project is not nearly completed, a NEPA analysis is required and a notification of intent to pursue an independent analysis must be sent to the grantee.
 - Where projects to be funded have been ongoing for several years, additional assessment may not be required if prior federal NEPA documentation has addressed the portions of the project to be funded by the FY95 grant. The region will need to assure that since the previous assessment: 1) there are no substantial changes in the proposed action relevant to environmental concerns, or 2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
- If the NEPA analysis was carried out under an earlier construction grant action and is no longer adequate or the project has not previously been assessed by EPA, it will be necessary to issue either an EA/FONSI or an EIS/ROD. The regulations applicable to these special project grants are the CEQ regulations (40 CFR Parts 1500-1508) and EPA's NEPA regulations (40 CFR Part 6, Subparts A-D). EPA's regulations at 40 CFR Part 6, Subpart E, while they do not apply to these special project grants, may provide additional guidance.

We anticipate that additional issues or sub-issues may arise which are not fully treated in this general guidance memorandum. These should be brought to our attention as soon as possible. In addition, we have scheduled a teleconference on Tuesday, January 24, 1995 from 11:00 a.m. to 12:00 noon eastern standard time to discuss this guidance and additional issues or concerns with the process. The call in number is (202) 260-4257. We look forward to your participation. Please inform John Gerba (202/260-5910) if you or your staff will not be on the call.

Attachments:

cc: Jim Havard, OGC
Ed Gross, OWM

ATTACHMENT 5



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 29 2003

MEMORANDUM

SUBJECT: Conditioning Grants for Water Infrastructure Projects Prior to NEPA Reviews

FROM: Anne Norton Miller, Director
Office of Federal Activities

James A. Hanlon, Director
Office of Wastewater Management

TO: EPA NEPA Compliance Coordinators, Regions I - X
Water Division Directors, Regions I - X

The purpose of this memorandum is to alert you to the outcome of a recent court case that will affect how you manage grants for the special projects awarded under the authority of the Agency's Appropriations Acts.

In the January 20, 1995 memorandum, "NEPA Guidance for Special Wastewater Projects in the FY 1995 Appropriation Bill," Richard E. Sanderson provided guidance on how EPA would comply with the National Environmental Policy Act (NEPA) for the special water infrastructure projects authorized in the Agency's FY 1995 Appropriations Act. With Congress providing funding in the State and Tribal Assistance Grants (STAG) account of the Agency's Appropriations Acts annually since FY 1995, this guidance continues to be the primary source of policy direction for NEPA compliance for all of the special projects, including drinking water, stormwater and groundwater protection infrastructure projects.

Following the issuance of the 1995 memorandum, the Office of Federal Activities (OFA) determined that Regions could award grants for special Appropriations Act projects before completing a NEPA review if the grant award contained a condition stating that EPA would not fund any work beyond the conceptual design point until completion of the applicable requirements of NEPA and other cross-cutting statutes such as the Endangered Species Act. This guidance has been memorialized in the "STAG Guidelines" issued annually by the Office of Wastewater Management (OWM). We have developed the attached model grant condition (with optional language depending on the situation of a specific grant) that can be used to set out the specific restrictions the grantee would agree to when EPA awards a grant that includes activity beyond conceptual design before the NEPA review is completed.

In a recent court case, CARE v. EPA, No. 03-0417 (D.D.C. April 15, 2003) involving a NEPA challenge to a local sewer project to be funded in part by an EPA grant, the court suggested that if EPA had awarded the special Appropriations Act grant prior to completing the NEPA review, the entire project, even the part being constructed with local funds, might have been considered a Federal project and subject to the NEPA requirements. This could have resulted in the court enjoining the entire project pending completion of the NEPA review. This court case raises the risk that projects could successfully be challenged under NEPA when EPA awards grants that include a grant condition stating that EPA will not fund any work beyond the conceptual design point until the NEPA process is completed. Accordingly, we recommend that you inform grantees of this potential issue if a conditioned grant is being considered.

Under the STAG Guidelines Regions may make separate planning grants to special Appropriations Act project recipients. The courts consistently have held that Federal actions that involve only planning activities are not subject to NEPA. Although awarding two separate grants (one for planning activities and one for all other activities) involves more paperwork, we recommend that the Regions consider using this approach.

The Office of General Counsel (OGC) has concurred in this memorandum. If you have any questions concerning the contents of this memorandum, you may contact us, or have your staff contact Joe Montgomery (202-564-7157) in OFA, Marilyn Kurray (202-564-3449) in OGC, or Larry McGee (202-564-0619) in OWM.

Attachment:

cc: Richard Kuhlman

MODEL GRANT CONDITIONS

To Be Included in STAG Grants Awarded Before Completion of Environmental Review under the National Environmental Policy Act

Instructions for Project Officers:

For projects that have not progressed beyond conceptual design prior to grant award, include the introductory paragraphs and, as appropriate, the two paragraphs labeled "Option 1."

For projects that have started detailed design or construction prior to the start of the fiscal year for which the funds were appropriated, include the introductory paragraphs and the paragraph labeled "Option 2."

For projects that started detailed design or construction after the start of the fiscal year for which the funds were appropriated but before completion of the environmental review process, the Region should either:

Award an incremental grant that only includes planning activities. A grant for the remainder of the project would be awarded after the NEPA requirements and other relevant authorities have been met, or

Wait and award a grant for all of the project after the NEPA requirements and other relevant authorities have been met.

NEPA Compliance:

In accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., EPA is required to conduct an environmental review on the project funded by this grant. Accordingly:

The recipient agrees to provide EPA, in a timely fashion, an environmental information document (EID) containing all the necessary information on the project including a written analysis of the alternatives and the environmental impacts of the project. The EID must be of sufficient scope and detail to enable EPA to perform an environmental review under NEPA and other Federal environmental statutes.

Conceptual design is essentially the same as facility planning as defined in EPA's Construction Grants program.

Option 1: (To be used for projects that have not progressed beyond conceptual design prior to grant award)

The recipient agrees not to take any action on the project beyond conceptual design, including but not limited to, beginning the preparation of plans and specifications, purchasing land, advertising or awarding design and/or construction contracts, initiating construction or requesting reimbursement from EPA for costs associated with such actions until such time as EPA has completed its environmental review in accordance with NEPA and 40 C.F.R. Parts 6 and 1500 et seq. Completion of this review will be evidenced by the issuance of a Categorical Exclusion (CE), the conclusion of the Finding of No Significant Impact (FONSI) process, or the issuance of a Record of Decision (ROD).

The recipient agrees that, upon completion of the NEPA review, design and construction shall be undertaken in accordance with the results of that review, including but not limited to, the implementation of measures EPA identifies as reasonable to mitigate the environmental impacts of the project. EPA reserves the right to unilaterally terminate this grant in the event the recipient fails to comply with this condition, in accordance with 40 C.F.R. Section 31.43.

Option 2: (To be used for projects that have started detailed design or construction prior to the start of the fiscal year for which the funds were appropriated)

The recipient agrees to cooperate with the EPA project officer to establish the appropriate procedures to be followed to ensure that the NEPA environmental review process is completed in accordance with NEPA and 40 C.F.R. Parts 6 and 1500 et seq. Completion of this review will be evidenced by the issuance of a Categorical Exclusion (CE), the conclusion of the Finding of No Significant Impact (FONSI) process, or the issuance of a Record of Decision (ROD). Furthermore, the recipient agrees to implement reasonable measures to mitigate the environmental impacts of the project.

EPA will not approve or fund any work beyond the conceptual design point until the NEPA requirements and other relevant authorities have been met. Additionally, EPA reserves the right to unilaterally terminate this grant in the event the recipient fails to comply with this condition, in accordance with 40 C.F.R. Section 31.43.

ATTACHMENT 6

CWSRF BENEFITS ASSESSMENT - CORE MEASURES FOR PROJECTS

This page lays out the measures. An electronic version of this worksheet will be used for reporting. It will include links to the definitions and data sources listings found on the following pages. These describe the data requested and EPA's plans to aggregate the information for all projects. Complete measures 0, 1, 2, 3, and 4 for each individual project at the time of loan execution; a single loan may finance multiple projects. 1, 2, and 3b are optional for nonpoint source projects. Please include clarifying and other comments where applicable.

CWSRF Core Benefits Measures

D. Basic project information (complete for all projects)

a. Project name _____
Project tracking # _____ Additional tracking # _____
(phased project) ☐ Phase # _____ Original project # _____
b. Permit type _____ Number _____
Waterbody ID# 12-digit HUC _____
Other location information _____
c. CWSRF loan amount to the project \$ _____
d. Total CWSRF loan amount \$ _____ Execution date _____
Interest rate (final) _____ % Repayment period _____ yrs
e. NIMS categories for the project _____
Circle all NIMS categories that apply to the project. For a nonpoint source project, enter the sub-category.
I II IIIA IIIB IVA IVB V VI X NPS=VII

1. User population served by the project _____
treatment facility (ies) _____

2. Volume of wastewater treated/processed _____ mgd
treatment facility (ies) _____ mgd

3. Improvement or maintenance of water quality
a. Does this project contribute to (check one):
water quality improvement? ☐ neither ☐
water quality maintenance? ☐
b. Does this project allow the system to (check one):
achieve compliance? ☐ neither ☐
maintain compliance? ☐
c. Is the affected surface water ☐ or groundwater ☐
meeting standards ☐ impaired ☐ threatened ☐
or not assessed ☐

8. Does this project's specific loadings reductions allow the system to address:
an existing TMDL allocation? ☐
a projected TMDL allocation? ☐
a watershed management plan? ☐ N/A ☐

4. Contribution to protection or restoration of designated uses and outcomes in the affected waterbody.
Mark all applicable boxes with a ☒. For the designated uses, specify one primary use that drives the water quality goals of the project, if applicable. P=primary. O=other.

If the project does not provide any water quality or public health benefits, but only improves infrastructure simply check this box. ☐

Designated uses	Protection	Restoration
Drinking water supply	☐ ☐	☐ ☐
Shellfish harvesting	☐ ☐	☐ ☐
Cold water fishery	☐ ☐	☐ ☐
Warm water fishery	☐ ☐	☐ ☐
Primary contact recreation	☐ ☐	☐ ☐
Secondary contact recreation	☐ ☐	☐ ☐
Agriculture	☐ ☐	☐ ☐
Other - please specify	☐ ☐	☐ ☐
Other - please specify	☐ ☐	☐ ☐

Other uses and outcomes	Protection	Restoration
Other public health	☐ ☐	☐ ☐
Water reuse/recycling	☐ ☐	☐ ☐
Groundwater protection	☐ ☐	☐ ☐
Other - please specify	☐ ☐	☐ ☐
Other - please specify	☐ ☐	☐ ☐

Reporting information: person filling out this form _____
Name _____ Phone # _____ Agency _____
Date completed _____

ATTACHMENT 7



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
WASHINGTON, D.C. 20460



October 26, 2005

SAAP-06-01

MEMORANDUM

SUBJECT: Process for Implementing Authority for Changes to Special Appropriations Act Projects (SAAP) in the State and Tribal Assistance Grants (STAG) Appropriations Account

FROM: Sheila E. Frace, Director /s/
Municipal Support Division

TO: Special Appropriations Act Projects Coordinators
Regional Grants Counsels
Regional Congressional Liaisons

The Agency's FY 2006 Appropriations Act included a permanent and retroactive provision that allows the Agency to make technical changes to the name of the grantee and the purpose of the grant. The new authority applies to earmarks in the State and Tribal Assistance Grants (STAG) Appropriations Account, also known as Special Appropriations Act Projects (SAAP) grants. Since each of you may at some time be the point of initial contact for requests for technical corrections, I wanted to make sure you were aware of the process by which the Agency will be implementing this provision.

Background:

Public Law 109-54, Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, contains the following language:

"notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection."

This authority will expedite technical corrections that have historically taken up to a year to make. In order to ensure expeditious review of requests for technical corrections, the Office of Wastewater Management (OWM) has worked with the Office of the Chief Financial Officer (OCFO) to develop a standard process that will facilitate consultation with the Appropriations Committees. OCFO has worked with the staff on the House and Senate Appropriations Committees to develop a format for a list of corrections with which we will initiate consultation [See Attachment A]. The Agency will consult the Committees before OWM approves requests for technical corrections. Thereafter, the Regional Coordinators will be notified of the corrections that may be implemented and the Region may award the grants consistent with OWM's determination.

Process:

1. The Regional SAAP Coordinator will collect all requests for technical corrections identified by the Region and then provide the information to the Office of Wastewater Management (OWM).
2. The SAAP Coordinator must email the information (using the format in the attachment) to Jordan Dorfman. This should be done at any time the Region becomes aware of a needed change.
3. OWM will compile the list of needed corrections at the end of each quarter. To ensure that corrections are included in any quarter's consultation, SAAP coordinators should provide the information on the needed changes to Jordan at least 2 weeks before the end of the quarter.
4. Upon completion, OWM will submit the list to Delia Scott, Agency Liaison to the Appropriations Committees in OCFO, and to the Office of General Counsel (OGC).
5. OWM, OCFO, and OGC will evaluate the list to ensure that the requests fall within the bounds of the new authority.
6. OCFO will initiate consultation with the Appropriations Committees by transmitting the final list to the Committees' staff.
7. OWM will notify the respective Regions through their SAAP coordinators of the requests that OWM is approving. The Regions may then award the grants to the new recipient or for the new purpose as approved.

For this first quarter only, to address an outstanding need for technical corrections from prior year appropriations, OWM will evaluate requests for corrections based upon two submissions: the first by late October, and a second at the end of the quarter. All outstanding requests from prior years must be resubmitted in accordance with this memorandum to be considered. Please send your list to Jordan by Monday, November 7th for inclusion in the first round of consultation.

Thank you for your patience. If you have any questions, please call Jordan Dorfman at (202) 564-0614.

Attachment

Cc: Delia Scott
Paul Versace
James Blizzard
Jason Donaldson
Tim Fontaine
Richard Kuhlman

ATTACHMENT 8



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
WASHINGTON, D.C. 20460



SAAP-06-02

January 20, 2006

MEMORANDUM

SUBJECT: Update to Guidelines for Implementing the Three Percent Set-aside Provision

FROM: George Ames, Chief /s/
State Revolving Fund Branch

TO: Special Appropriations Act Projects Coordinators

The purpose of this memorandum is to provide Regional Coordinators with an update to the guidelines for implementation of the three percent set-aside provision ("guidelines"), issued on September 27, 2001. Specifically, this memorandum will change the process for distribution of the set-aside to those States that choose to accept the set-aside for project inspection purposes.

Background

Page six of the guidelines discusses the process for transference of the set-aside funds to those states that have opted to accept the funds. Specifically, the guidelines state:

"The Regional Offices should submit requests to Headquarters for distributions from the set-aside account. All requests for use of the set-aside funds should include the information contained in Attachment 1. In cases where the funds are to be awarded to a State, the request should be on a State-by-State basis. An example of a request that was prepared by the State of South Dakota, which is less than two pages, is shown in Attachment 2. The 253 special projects, including project descriptions and grant amounts, are listed on Attachment 3."

This process has been in place since FY 2001. The Regional Coordinators must individually make requests on a state-by-state basis after each state has submitted its request to the Region. EPA Headquarters transfers funds to the Regions on a state-by-state basis, followed by the state applying for the set-aside grant.

Modification

Following discussion with the Regional Coordinators at the annual SAAP meeting held in November, 2005, we have decided to modify the process for requesting set-aside funds for states. As of the beginning of FY 2006, the following streamlined process will be in place:

1. At the beginning of each fiscal year, after the final dollar amount per project is published, each Regional Coordinator will request the set-aside funds to be awarded to states in their respective regions for that fiscal year, based upon the projects listed in the appropriations conference report. The request should be for one lump sum per region. This request should be sent to Jordan Dorfman (dorfman.jordan@epa.gov).
2. EPA Headquarters will transfer the specified amount to each Region.
3. Each state may submit its request for set-aside funds and grant application at the same time, for review by the Regional Coordinator.
4. The Region will award the set-aside grants.
5. Any remaining funds will be carried over to the next fiscal year.

Conclusion

We believe that this process will reduce the time and effort needed to award three percent set-aside grants to the states, and reduce the burden on the Regional Coordinators. Thank you for your patience. If you have any questions, please call Jordan Dorfman at (202) 564-0614.

cc: Jim Hanlon, OWM
Sheila Frace, MSD
Ben Hamm, MAB

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

6 July
2006
City Council Meeting Date

Marsha Farthing

Submitted By

FIS Director

Division

Finance & Internal Services

Department

Action Required:

Action Required: Approval of a bid waiver for Davis Business Planning for project management services and technical advisory services for use by Fayetteville for the District Court Software Upgrade Project, the 2006 Water & Sewer Rate Study and completion of the WSIP Financing. Approval of a budget adjustment for the technical advisory services is requested from Water & Sewer Fund.

\$15,000.00
\$45,100.00

Cost of this request

4470-9470-5801-00

5400-1840-5314-00

Account Number

05003-1

06010-1

Project Number

\$	245,000.00
\$	118,491.00

Category/Project Budget

\$	202,100.00
----	------------

\$	118,490.00
----	------------

Funds Used to Date

\$	42,900.00
----	-----------

\$	1.00
----	------

Remaining Balance

District Court Software Upgrade

Utility Rate Review and Analysis

Program Category / Project Name

Program / Project Category Name

Sales Tax Capital

Water & Sewer

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

XX

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

OK
City Attorney

5-23-06

Marsha Farthing
Finance and Internal Service Director

5/19/06
Date

Don Cook
Mayor

6/14/06
Date

Received in City Clerk's Office

ENTERED

5/19/06

Received in Mayor's Office

ENTERED

5/23/06

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Dan Coody, Mayor

FROM: Marsha Farthing, Interim Finance & Internal Services Director 

DATE: May 18, 2006

SUBJECT: **Approval of a bid waiver for professional services from Davis Business Planning and acceptance of proposal for the services and approval of a budget adjustment funding the technical advisory services for water & sewer.**

Recommendation

Staff recommends approval of a bid waiver authorizing the Mayor to sign necessary documents to contract with Davis Business Planning for: 1) project management oversight for the District Court Software Upgrade, 2) technical advisory services in conjunction with the 2006 water & sewer rate study and 3) technical advisory services in conjunction with completion of the financing program on the wastewater system improvements project. Approval of a budget adjustment in the amount of \$45,100 for the technical advisory services for water & sewer is also requested.

Discussion

Davis Business Planning has the expertise and time to assist Fayetteville with the implementation of these projects.

- District Court Software Upgrade – this project is scheduled to be fully implemented by mid-to-late September, 2006 and requires dedicated project oversight to ensure that these tight timeframes are met. Completion of this project will allow the integration of the Court data with the Police Department software to streamline dataflow between these two agencies with the goal of eliminating duplicate entry of data. The Police Department is planning to upgrade ticket writing during the 4th quarter 2006 that will take further advantage of dataflow streamlining.
- Water & Sewer Rate Study Technical Advisory Services – this task order will provide the necessary resources to assist Fayetteville in the development and presentation of a comprehensive water & sewer rate study. The technical advisory services will develop the linkages between existing city financial and maintenance databases and database applications owned by Fayetteville for future water & sewer rate reviews. Fayetteville purchased rate development software in 2005 with the intention of utilizing the 2003 rate study as a baseline for future rate reviews. In mid-2005, the City determined the data available from the 2003

was not suitable for use as a baseline so implementation of the ratemaking software was postponed. The 2006 rate study is expected to develop sufficiently robust data so that this data can be used as a baseline. It is the plan to calibrate rates developed by HDR/EES with rates developed with this software so the City will have the option to perform detailed periodic rate reviews in-house and postpone the requirement for an outside consultant for these services.

- WSIP Financing Technical Advisory Services – it is expected that dedicated, focused effort will be needed during the 2nd and 3rd quarters 2006 to finalize the financing package with Arkansas Natural Resources Commission for the wastewater system improvement project. These services will include presentations of the rate study results to ANRC staff and providing explanations as questions are developed.

Budget Impact

The cost of this request is estimated to be \$60,100. The District Court Project Management cost is funded within the project. The technical advisory services for the Water & Sewer Rate Study and WSIP Financing will need a budget adjustment funding the agreement.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Marsha Farthing, Accounting Manager

FROM: Stephen Davis, FIS Director 

DATE: May 22, 2006

SUBJECT: **Davis Business Planning**

I am submitting this memorandum in response to your request.

On June 9 2006 I will be leaving employment with the City of Fayetteville. The City of Fayetteville has three specific actions currently underway that require specific sets of project knowledge and background (project history), specific capabilities (management of budget and time) and specific expertise (knowledge of financing procedures for Arkansas Natural Resources Commission, rate-making principles as established by the American Water Works Association, job cost accounting theories and applications and development of systematic progress reporting).

The reason a bid waiver was requested was primarily due to the following items:

- 1 The City has three (3) very critical improvements underway:
 - District Court Software Upgrade;
 - Water & Sewer Rate Study; and
 - Completion of the financing package for the WSIP.
- 2 Unique skill sets are desired for the successful completion of these projects.
- 3 The City does not have any existing staff to assign to these projects.
- 4 The City must have all of these tasks completed within a very tight time period. The City also needs a high level of confidence that these tasks will be completed on time, professionally and within budget.

My history with the City of Fayetteville demonstrates that I have the unique skills and expertise to meet the City's objectives.

Fayetteville could prepare competitive procurement documents and seek to obtain these services on the open market. If Fayetteville chooses to competitively procure the services listed above then it would be my recommendation that the City re-consider the timelines for each of the tasks listed

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING PROCEDURES AND APPROVE A CONTRACT WITH DAVIS BUSINESS PLANNING IN THE AMOUNT OF \$60,100.00; AND A BUDGET ADJUSTMENT OF \$45,100.00.

WHEREAS, on June 9, 2006, Stephen Davis (Financial and Internal Services Director) will be leaving employment with the city after 15 years of service; and

WHEREAS, Stephen Davis has unique and substantial knowledge about three critical improvement projects underway for the City: District Court Software Upgrade; Water and Sewer Rate Study; and Bond financing for completion of the Wastewater System Improvement Project; and

WHEREAS, because of Stephen Davis' unique experience, knowledge and involvement in these projects and the lack of other current city personnel with the expertise and time to handle these projects, an exceptional situation exists in which competitive bidding to obtain these services is not feasible or practical.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that an exceptional situation exists where competitive bidding for the services needed by the City as outlined above is deemed not feasible or practical. Therefore, the City Council waives the requirements of competitive bidding and accepts the contract proposal from Davis Business Planning in the amount of \$60,100.00 as attached as Exhibit A.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$45,100.00 attached as Exhibit B.

PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

**Davis Business Planning, LLC
CONTRACT FOR SERVICES
Project Management and Technical Advisory Services**

This Agreement made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Davis Business Planning, LLC ("Davis Business Planning"), #9 Township, Fayetteville, AR 72702; and

WHEREAS, City of Fayetteville at it's _____, 2006 City Council meeting awarded a contract for project management services and technical advisory services to Davis Business Planning and;

WHEREAS, Davis Business Planning and City of Fayetteville for the consideration hereinafter named, agree and acknowledge that:

Davis Business Planning agrees to provide, in good faith, contract project management services and technical advisory services for each project specified in strict conformity with all sections of the **individual task orders**, and agrees the individual task orders shall form essential parts of this Agreement as if fully contained herein.

The City of Fayetteville shall develop a Task Order detailing the services to be provided. Davis Business Planning shall prepare a fee schedule and deliverable schedule subject to City of Fayetteville approval.

Upon receipt of written City of Fayetteville approval, Davis Business Planning agrees to commence each task order authorized under this Contract on a date to be specified in a written Notice to Proceed notifying Davis Business Planning of the task order within ten (10) business days after receipt of Notice to Proceed; provided however, the parties acknowledge and agree

that Davis Business Planning will not be available until June 26, 2006.

City of Fayetteville agrees to pay Davis Business Planning, in current funds, for the performance of this Contract in accordance with the **fee schedule ("Fee Schedule") incorporated with each task order**. The City of Fayetteville and Davis Business Planning agree that Davis Business Planning shall be compensated for out-of-scope services on a time and material basis in accordance with the attached Fee Schedule.

City of Fayetteville shall designate a city representative for each task order and both the City of Fayetteville and Davis Business Planning stipulate that all direction, management and communication regarding such Task Order shall be through the designated City representative for the aforesaid Task Order.

Davis Business Planning shall submit all written communications and invoices to the City of Fayetteville's aforesaid designated City representative for each task order. City of Fayetteville shall have 30 calendar days to pay such invoices on each Task Order. Davis Business Planning agrees to provide documentation to the City representative as the documentation pertains directly to the invoice submitted to aid the City of Fayetteville in evaluating the completeness and accuracy of monies due pursuant to each submitted invoice.

Davis Business Planning shall submit a written progress report and an electronic version of such report to the City's designated representative on a monthly basis.

Davis Business Planning assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Stephen Davis, representing Davis

Business Planning as the sole point of contact with regard to contractual matters.

Davis Business Planning shall indemnify and hold harmless City of Fayetteville, and its Officers, Directors, Employees, Agents, and other Consultants of each and any of them from and against claims, costs, damages, losses, and expenses, arising out of or resulting from performance of each Task Order, but only to the extent caused in whole or in part by acts or omissions of Davis Business Planning, its Officers, Directors, Employees, Agents, and anyone directly, or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, cost, damage, loss, or expense is caused in part by a party indemnified hereunder, except that no party shall indemnify any other party or person for their own sole negligence. The liability of Davis Business Planning to indemnify and hold harmless the City of Fayetteville shall be limited to the fee income due Davis Business Planning as it pertains to the subject Task Order.

Davis Business Planning agrees to comply with the laws of the State of Arkansas. Notwithstanding statutory exemptions or exclusions, Davis Business Planning agrees to subject itself to the jurisdiction and process of the Courts of Washington County, State of Arkansas as to all matters and disputes arising or to arise under this Agreement and the performance thereof, including all issues relating to liability for taxes, licenses or fees levied by the State. Davis Business Planning irrevocably consents that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract, shall be brought in any court of competent jurisdiction in Washington County, Arkansas.

Davis Business Planning without the express written consent of City of Fayetteville hereunder shall make no assignment or transfer of this Agreement or any right accruing in whole or in part.

Freedom of Information Act: City of Fayetteville 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, the contractor 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 photo coping costs pursuant to the FOIA may be assessed for this compliance.

Changes in scope: Changes, modifications, or amendments in scope that result in changes to the Fee Schedule on the subject Task Order shall not be allowed without a prior formal contract amendment approved by the City of Fayetteville **in advance** of the services provided based on the change in scope.

A waiver by either party of any breach of the provisions hereof shall not be deemed a waiver of any succeeding breach of such provision or any other provision of this Agreement. Should any term, provision or other part of this Agreement be declared illegal or unenforceable, it shall be excised or modified to conform to the appropriate laws or regulations, and the remainder of the Agreement shall not be affected but shall remain in full force and effect.

No modification or amendment of the terms hereof shall be effective unless written and signed by the authorized representatives of all parties hereto.

This Agreement constitutes the final and complete agreement and understanding between the parties regarding the subject matter hereof. All prior and contemporaneous Agreements and understandings, whether oral or written, are to be without effect in the construction of any provisions or term of this Agreement if they alter, vary or contradict this Agreement.

Davis Business Planning and City of Fayetteville, their successors, executors, administrators and assigns hereby agree to the full performance of the covenants herein contained.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2006.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY _____
DAN COODY, Mayor

ATTEST:

BY _____
SONDRA SMITH, City Clerk



Consultant Firm's Authorized Signature

BY Stephen L. Davis, Principal
PRINTED NAME AND TITLE

ATTEST:

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

D. 3
Davis Business Planning
Page 11 of 20

Budget Year 2006	Department: Operations Division: Meter Operations Program: Meter Capital	Date Requested 6/6/2006	Adjustment Number
----------------------------	--	-----------------------------------	-------------------

Project or Item Added/Increased: Request additional funding for Project 06010 Utility Rate Review and Analysis Project.	Project or Item Deleted/Reduced: Remaining funds from the Utility Rate Software Project and use of fund balance is proposed for this adjustment.
---	--

Justification of this Increase: These funds are requested to fund a contract to provide technical advisory services for the 2006 water & sewer rate study and the WSIP financing program.	Justification of this Decrease: The City has resolved all outstanding issues and these funds are available for other uses.
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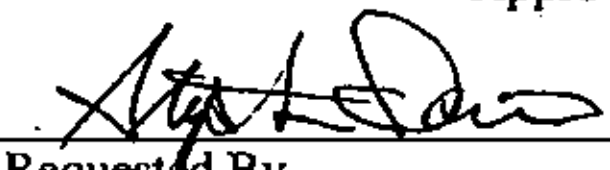
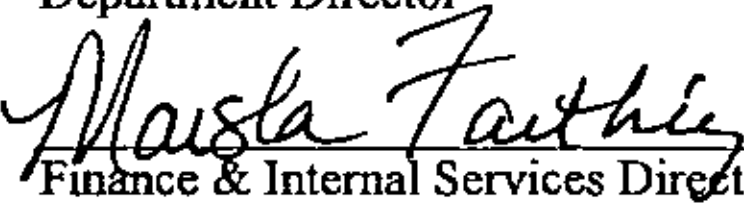
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5400	1840	5314	00	45,100	06010	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	5400	1840	5801	00	4,075	04045	1
Use of fund balance	5400	0940	4999	99	41,025		

Approval Signatures

	5-19-06
Requested By	Date
	5-19-06
Budget Manager	Date
	5/19/06
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date



DAVIS BUSINESS PLANNING

Stephen L. Davis
P.O. Box 3381
Fayetteville, Arkansas 72702
Cell number: 479-225-2106
davisbizplan@yahoo.com



May 18, 2006

City of Fayetteville

113 West Mountain Street
Fayetteville, AR 72701

Dear Mayor Coody:

I am submitting this proposal to provide the City of Fayetteville with project management and technical advisory services for the following three areas:

- ☐ Project management oversight to the District Court Software Upgrade;
- ☐ Technical advisory services in conjunction with the 2006 Water and Sewer Rate Study; and,
- ☐ Technical advisory services in conjunction with completion of the financing plan for the Wastewater System Improvements Project.

It is expected that the services from my firm will be needed for approximately ten months to complete all of these tasks. The proposed fee structure is listed by task with the predicted time for completion:

Task	Project Schedule Start and Completion Date	Services Provided	Proposed Fee	Additional Comments
Task 1 District Court Software Upgrade	July 2006 to September 2006	Project management oversight	Lump Sum - \$15,000.00	It is further proposed the fee for months beyond September will be \$175.00 per hour.
Task 2 Water & Sewer Rate Study	July 2006 to February 2007	Technical advisory services to include linking the 2006 water & sewer rate study to the City's financial system data, maintenance and operating data contained within existing data-bases as well as presentation of the results to interested customer groups and regulatory agencies and calibration of the City-owned rate development software.	Lump Sum - \$40,000.00 plus travel expenses. Travel expense to Little Rock will be charged at a rate of \$300.00 for a day trip and \$400.00 for a trip requiring an overnight stay.	It is further proposed the fee for months beyond February will be \$175.00 per hour.

DAVIS BUSINESS PLANNING



Stephen L. Davis
P.O. Box 3381
Fayetteville, Arkansas 72702
davisbizplan@yahoo.com



Task 3 WSIP Financing	July 2006 to September 2006	Technical Advisory Services – As Needed	\$175.00 per hour plus trips cost to Little Rock.	
---------------------------------	--------------------------------	--	---	--

I appreciate the opportunity to provide these services to the City of Fayetteville and look forward to a successful completion of the tasks outlined above.

Sincerely,

Stephen L. Davis
Principal
Davis Business Planning

Proposal Acceptance:

City of Fayetteville, Arkansas

By:

Dan Coody, Mayor

Date:

City Logo

**City of
Fayetteville,
Arkansas**

D. 3
Davis Business Planning
Page 14 of 20
Task Order SOW for Services
Rev. 1.0, 05/25/2006

Task Order Statement of Work For Services

Water & Sewer Rate Study - 2006

with

Davis Business Planning, LLC
for

Technical Advisory Services

25 May 2006

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1. Introduction

The purpose of this Statement of Work (SOW) is to detail the tasks and responsibilities of Davis Business Planning, LLC (hereinafter, Davis Business Planning) in relation to the contract with the City of Fayetteville, Arkansas (hereinafter, Fayetteville) for Technical Advisory Services in conjunction with the Water & Sewer Rate Study – 2006 and development of the necessary data links between the Fayetteville financial data, Fayetteville water and sewer utility data, Fayetteville cost data contained within the municipal management system and existing water or sewer master plans.

1.1 Background

Fayetteville owns and operates a publicly owned water distribution system and a publicly owned treatment works that serves a population of approximately 85,000 located within Fayetteville and surrounding communities. Fayetteville is negotiating long-term loans with Arkansas Natural Resources Commission (ANRC). Existing revenue bonds and the ANRC loan documents requires a minimum revenue coverage for the mandatory debt service payments. Fayetteville has engaged HDR/ESS to conduct a cost-of-services rate study to assist Fayetteville in determining the most appropriate rate structure to meet the requirements of existing bond indentures and ANRC regulations. Additionally, Fayetteville has purchased rate-making software for use by Fayetteville staff to perform future rate reviews in-house.

Finally, Fayetteville has a need to develop a long-term financing plan that is linked to the master water facility plan that addresses water system enhancements and reinforcements to meet predicted future needs.

2. Term

This SOW shall apply to the term stated in the Davis Business Planning:

- The contract goes into effect June 26, 2006 and shall terminate on June 30, 2007.

3. Tasks/Scope

3.1 General Requirements

- Davis Business Planning shall submit a cost proposal with an associated project management plan addressing the tasks specified in the SOW
- All written deliverables must be phrased in terms and language that can be easily understood by non-technical personnel (e.g., laypersons without subject matter expertise)

- All document deliverables must be in formats (hard copy and electronic) as mutually agreed upon by Fayetteville and Davis Business Planning - at a minimum, the formats must be in industry accepted standards (e.g., MS Word, Adobe Reader, MS PowerPoint)
- Fayetteville will complete a review of each submitted deliverable within ten (10) working days for the date of receipt.
- A kickoff meeting will be held at a location and time selected by Fayetteville where Davis Business Planning and its staff will be introduced to Fayetteville.
- Davis Business Planning and/or its staff must have knowledge and expertise of the subject matter (e.g., AWWA rate-making methodology, financial reporting systems, job order costing principles, work order costing accumulation systems, cost analysis, report design and development, etc.) for which work is to be performed

3.2 Mandatory Tasks and Associate Deliverables

3.2.1 Review, Analysis and Assistance in Preparation of Data Needs for the Water and Sewer Rate Study 2006

- Davis Business Planning shall participate in the Rate Study kick-off meeting conducted by HDR/ESS and assist Fayetteville staff in development of the necessary background data as defined by HDR/ESS.
- Davis Business Planning shall review documents developed by Fayetteville staff to ensure the data meets the stated goal as identified by HDR/ESS.
- Davis Business Planning shall review drafts of HDR/ESS work papers to ensure a clear understanding of the application of rate-making principles. Davis Business Planning may participate in meetings (teleconference, video-conference and/or face to face meetings, customer group workshops) conducted by HDR/ESS, as Davis Business Planning is authorized by Fayetteville.

3.2.2 Analysis of Existing Financial System and Work Order System Workflow

- Davis Business Planning shall develop a workflow diagram illustrating the process, in place, to record and document expenses incurred by Fayetteville employees assigned to the Water & Sewer Utility.
- Davis Business Planning shall develop a workflow diagram illustrating the process, in place, to record and document labor, equipment and material costs incurred for each work order or service request.
- Davis Business Planning shall develop a reconciliation process for Fayetteville staff to implement that reconciles the financial system data and the work order system data.

3.2.3 Implementation Plan

- Davis Business Planning shall devise and develop an implementation plan for Fayetteville staff, provide training for no-more-than five (5) Fayetteville staff members in four (4) training sessions and conduct two (2) follow-up reviews for quality assurance.
- Deliverables:
 - Implementation Plan Development and associated documentation.
 - Conduct training sessions.
 - Conduct quality assurance follow-up sessions.

3.2.4 Workshops, Public Meetings, Customer Group Meetings

- Davis Business Planning may be requested to assist Fayetteville staff or HDR/ESS in development of presentation materials for the results of the Water & Sewer Rate Study – 2006.
- Deliverables:
 - Development of presentation materials for approval by designated Fayetteville representatives.
 - Participation in public meetings/workshops.
 - Participation in meetings/workshops with Fayetteville Bond Underwriters, Fayetteville Bond Counsel or ANRC staff.

3.2.5 Reporting

- Davis Business Planning shall provide reporting to the assigned City representative on a monthly basis. The report shall provide a status of each sub-task. Deliverables:
 - Monthly Reports
 - Davis Business Planning may be requested to assist in development of materials for Fayetteville staff, public meetings and/or workshops with the Fayetteville City Council or any customer group.

4. Deliverables

4.1 Reports and Meetings

- Davis Business Planning is required to provide the City representative with monthly written progress reports (one copy) and an electronic copy of the implementation phase of this project.
- Progress reports shall cover all work performed and completed during the month for which the progress report is provided. The progress report shall identify any problems encountered or still outstanding with an explanation of the cause and resolution of the problem or how the problem will be resolved.

- Meetings as requested by designated Fayetteville representative.

5. Period of Performance

- The period of performance for Task 3.2.1 is from June 26, 2006 to February 28, 2007.
- The period of performance for Task 3.2.2 is from June 26, 2006 to April 30, 2007.
- The period of performance for Task 3.2.3 is from October 2, 2006 to April 30, 2007.
- The period of performance for Task 3.2.4 is from June 26, 2006 to April 30, 2007.

6. Payments

Davis Business Planning shall invoice Fayetteville on a bi-monthly basis for payment on this statement of work. Fayetteville shall pay the invoices within thirty (30) calendar days from the date received by Fayetteville. Payments made beyond these terms may be assessed late fees as authorized by Arkansas law.

7. Davis Business Planning Personnel Requirements

Davis Business Planning must have specialized experience and knowledge commensurate with the specified task.

8 Travel

- In all circumstances, travel must be authorized by Fayetteville prior to Davis Business Planning invoicing Fayetteville for travel cost. Travel shall be limited to Arkansas and shall be paid based on Davis Business Planning utilizing distances published by Rand-McNally and the most recent IRS mileage rate. Meal expenses shall be reimbursed based on the most recent IRS allowances. All other out-of-pocket expenses shall be reimbursed with the presentation of a detailed receipt.

RESOLUTION NO. 95-06

A RESOLUTION APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR 2006 IN THE AMOUNT OF \$653,244.00.

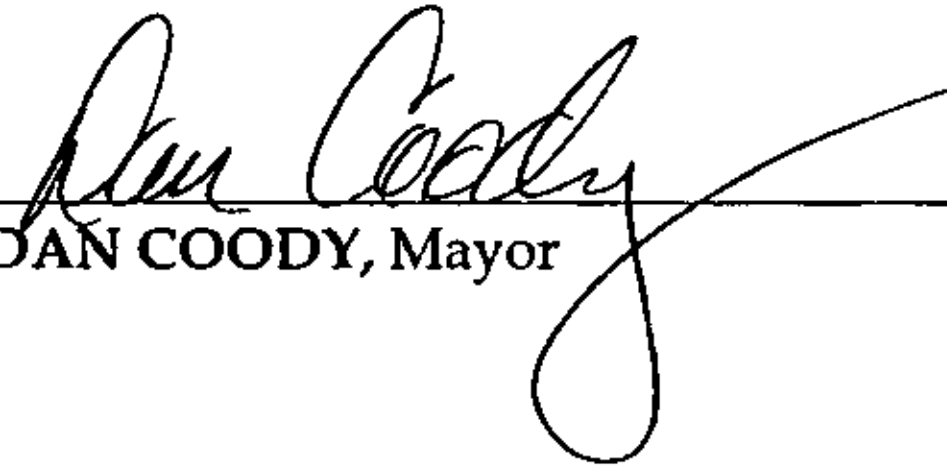
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

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:

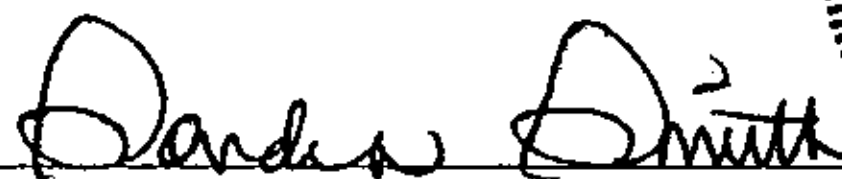
➤ Administration	\$112,670.00	➤ Boys and Girls Club	\$17,372.00
➤ Rehabilitation	\$192,474.00	➤ Code Compliance	\$39,524.00
➤ YouthCan	\$19,603.00	➤ Land Acquisition	\$25,678.00
➤ Elderly Taxi Program	\$10,000.00	➤ Public Housing Authority	\$102,898.00
➤ NWA Community College	\$33,025.00	➤ Seven Hills Center	\$100,000.00

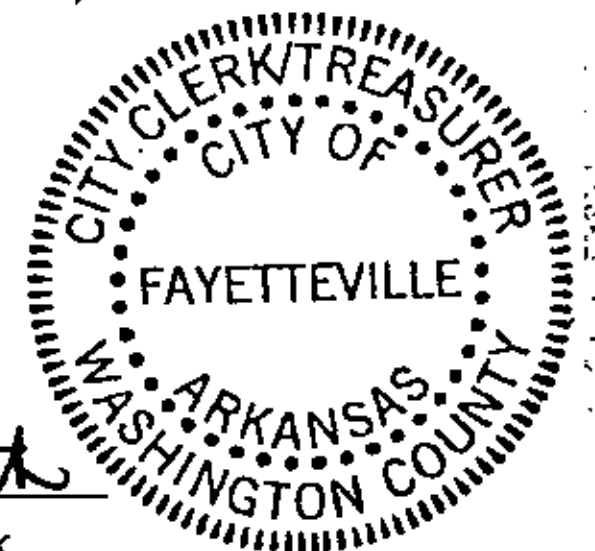
PASSED and APPROVED this 6th day of June, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



RESOLUTION NO. 96-06

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:

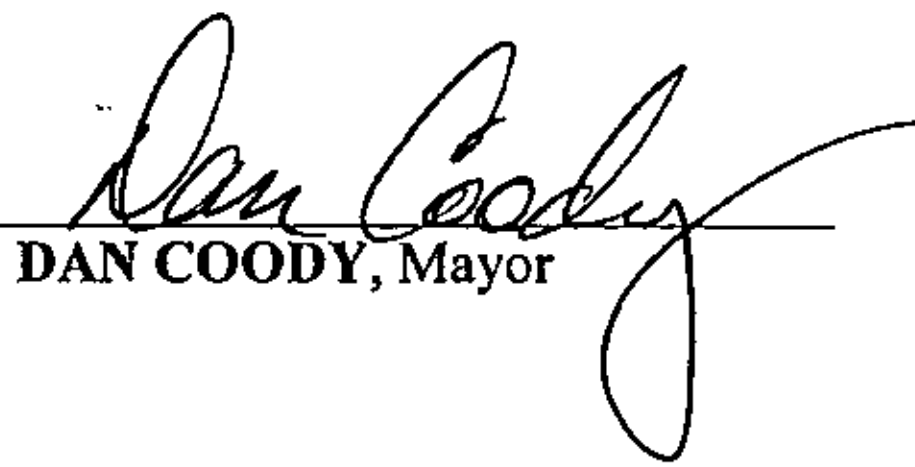
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Change Order #2 to the construction contract with APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of \$277,505.60. A copy of Change Order #2, marked Exhibit "A" is attached hereto, and made a part hereof.

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.

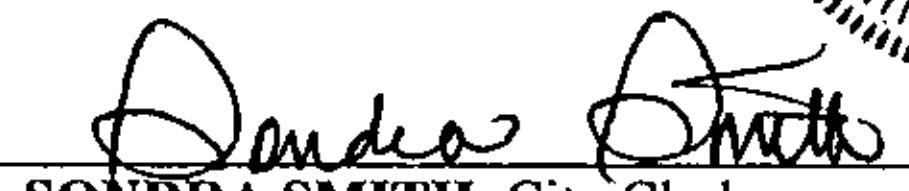
APPROVED:

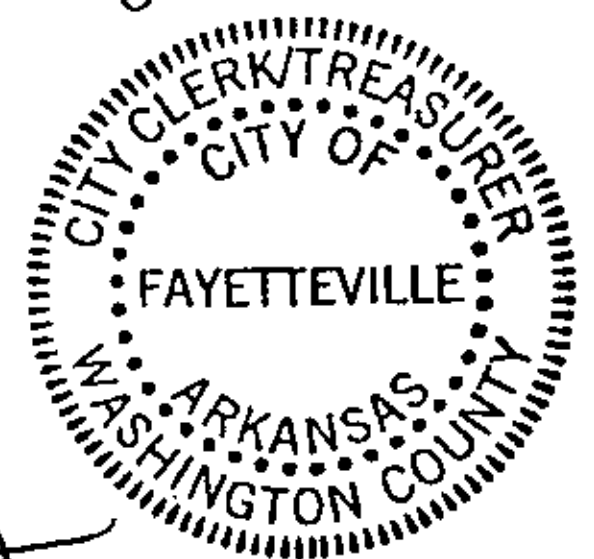
By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



RECEIVED

MAY 09 2006

CHANGE ORDER

AIRPORT

Order No. 2Date: May 2, 2005Agreement Date: August 2, 2005NAME OF PROJECT: West Side GA Apron ImprovementsOWNER: 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 per 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: \$ 886,724.15Increase in Contract Price: \$ 277,505.60Revised CONTRACT PRICE Including this Change Order: \$ 1,164,229.75Final Completion Time Prior to This Change Order: 150 Calendar DaysNet 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: [Signature] 5/9/06
APAC- Arkansas, Inc., McClinton Anchor Division DateRecommended by: [Signature] 5-5-06
McClelland Consulting Engineers, Inc. DateApproved by: [Signature] 6/13/06
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. 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
1	Mobilization & Demobilization	1	LS	\$58,000.00	\$58,000.00	1	\$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	Unclassified Excavation (Plan Quantity)	8,200	CY	\$11.20	\$91,840.00	11,600	\$11.20	\$129,920.00
4	Embankment from Excavation (Plan Quantity)	775	CY	\$6.25	\$4,843.75	1,050	\$6.25	\$6,562.50
5	Select Borrow Embankment (Plan Quantity)	4,690	CY	\$16.85	\$79,028.50	6,940	\$16.85	\$116,939.00
6	Topsoil Replacement (Plan Quantity)	1,440	CY	\$28.00	\$40,320.00	2,040	\$28.00	\$57,120.00
7	Undercut and Embankment Backfill	1,000	CY	\$21.00	\$21,000.00	1,500	\$21.00	\$31,500.00
8	Soil Stabilization Fabric	4,500	SY	\$1.60	\$7,200.00	7,500	\$1.60	\$12,000.00
9	Straw Bale Barrier	105	LF	\$2.10	\$220.50	150	\$2.10	\$315.00
10	Filter Fabric Barrier	600	LF	\$4.38	\$2,628.00	800	\$4.38	\$3,504.00
11	Crushed Aggregate Base Course	2,856	TN	\$18.00	\$51,284.00	4,250	\$18.75	\$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
13	Apron Joint Sealant	1	LS	\$14,070.00	\$14,070.00	1	\$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
15	2-Inch Asphalt Surface, Type II	20	TN	\$119.00	\$2,380.00	20	\$119.00	\$2,380.00
16	Concrete Curb and Gutter	126	LF	\$30.00	\$3,780.00	126	\$30.00	\$3,780.00
17	Handicap Ramps, AHTD Type 3	2	EA	\$960.00	\$1,920.00	2	\$960.00	\$1,920.00
18	18-Inch RCP, Class III, Wall B	390	LF	\$64.00	\$24,960.00	560	\$64.00	\$35,840.00
19	8-Inch PVC Sch 80 Pipe	0	LF	\$0.00	\$0.00	182	\$42.00	\$7,644.00
20	Grate Inlet	2	EA	\$6,000.00	\$12,000.00	4	\$6,000.00	\$24,000.00
21	Junction Box	2	EA	\$4,200.00	\$8,400.00	2	\$4,200.00	\$8,400.00
22	Curb Inlet over Existing Pipe	0	LF	\$0.00	\$0.00	1	\$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
24	Pipe Underdrain System	150	LF	\$10.00	\$1,500.00	200	\$10.00	\$2,000.00
25	Solid Sodding	10	SY	\$10.30	\$103.00	20	\$10.30	\$206.00
26	Seeding, Fertilizing, and Mulching	1.8	AC	\$2,000.00	\$3,600.00	2.8	\$2,000.00	\$5,200.00
27	Taxiway Striping (Yellow)	550	LF	\$3.45	\$1,897.50	700	\$3.45	\$2,415.00
28	Taxiway Striping (Black Outline)	1,100	LF	\$3.45	\$3,795.00	1,400	\$3.45	\$4,830.00
29	Trench and Excavation Safety System	1	LS	\$6,100.00	\$6,100.00	1	\$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
31	New 6" Chain Link Fence with Barbed Wire	655	LF	\$19.00	\$12,445.00	780	\$19.00	\$14,820.00
32	Relocate Sliding Gate and Controls	0	LS	\$0.00	\$0.00	1	\$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
34	Remove Asphalt Pavement (3020 SY)	1	LS	\$9,000.00	\$9,000.00	1	\$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
36	Remove Concrete Swale (72 SY)	1	LS	\$750.00	\$750.00	1	\$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
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
39	Relocate SCADA System Antenna to Pump Sta. South of Terminal Building	1	LS	\$260.00	\$260.00	1	\$260.00	\$260.00
40	Remove Concrete Inlet	0	LS	\$0.00	\$0.00	1	\$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
42	Remove Sanitary Sewer Manholes	2	EA	\$250.00	\$500.00	2	\$250.00	\$500.00
43	New Sanitary Manhole	6	EA	\$2,700.00	\$16,200.00	6	\$2,700.00	\$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
45	Crushed Stone Trench Backfill	908	TN	\$19.00	\$17,252.00	908	\$19.00	\$17,252.00
46	Conc. Curb Removal and Repair	40	LF	\$23.00	\$920.00	40	\$23.00	\$920.00
47	Asphalt Drive Repair	545	SY	\$52.00	\$28,340.00	545	\$52.00	\$28,340.00
48	Asphalt Parking Repair	100	SY	\$44.00	\$4,400.00	100	\$44.00	\$4,400.00
49	Third Party Insurance Coverage (Rider Amount)	1	LS	\$200.00	\$200.00	1	\$200.00	\$200.00
				Current Project Cost		Change Order 2 Price		
				\$886,724.15		\$291,999.35		

Increased Project Cost **\$291,999.35**

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

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.

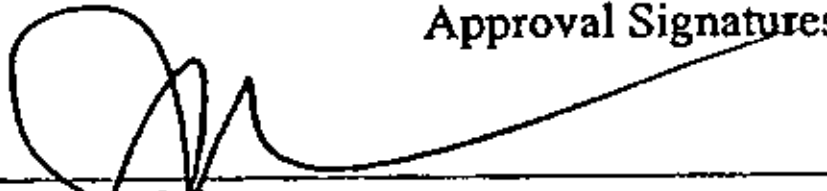
Increase Expense Budget (Decrease Revenue Budget)

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)

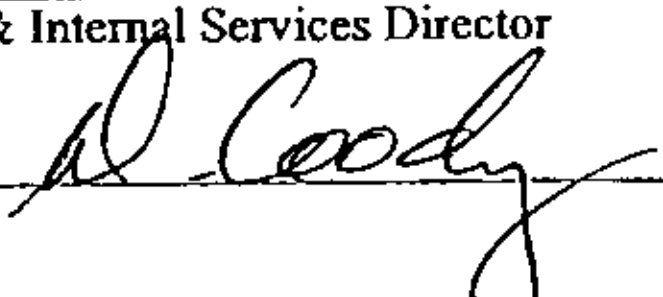
Account Name	Account Number				Amount	Project Number	
West Gen Aviation Apron	5550	0955	6820	34	167,044	05034	1
State grants on Fed proj	5550	0955	6803	00	18,561	05034	1

Approval Signatures


Requested By 5/5/06
Date


Budget Manager 5/5/06
Date

Department Director

Finance & Internal Services Director 6/13/06
Date

Mayor

Budget Office Use Only

Type: A B C D E

Posted to General Ledger Initial Date

Posted to Project Accounting Initial Date

Entered in Category Log Initial Date